

17358

## The Gazette



## of India

PUBLISHED BY AUTHORITY

No. 5] NEW DELHI, SATURDAY, MARCH 15, 1958/PHALGUNA 24, 1879

## NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 8th March 1958 :—

Issue	No. and date	Issued by	Subject.
8-A.	S.O. 118-A, dated the 25th February 1958.	Ministry of Law	Declaration containing the name of the candidate elected to the House of the People by the Jalna Constituency.
10	S. O. 152, dated the 26th February 1958.	Ministry of Information & Broadcasting	Certification of films to be of the description specified therein.
11	S. O. 153, dated the 25th February 1958.	Election Commission India.	Notice of withdrawal of Election Petition No. 469 of 1957.
12	S. O. 154, dated the 27th February 1958.	Ministry of Labour and Employment.	Extension of the period of operation of the award of Industrial Tribunal, Bombay as published in the late Ministry of Labour, No. S.R.O. 1262, dated the 7th June 1955.
13	S.O. 155, dated the 27th February, 1958.	Ministry of Commerce and Industry.	Amendments made in the Exports (Control) Order, 1954.
14	S.O. 156, dated the 25th February 1958.	Election Commission, India.	Designation of the Returning Officer for the Parliamentary Constituency in the State of Kerala.
	S.O. 157, dated the 26th February 1958.	Do.	Corrigendum to Notification No. 82/403/57, dated the 5th February 1958 (S.O. 36).
15	S.O. 158, dated the 1st March 1958.	Ministry of Commerce and Industry.	Fixation of the price of tea for the purpose of Item 5 in the Second Schedule to the Indian Tariff Act, 1934.
16	S.O. 159, dated the 1st March 1958.	Election Commission, India.	Appointment of dates for the biennial election to the Council of States from the Union Territory of Delhi.

Issue No.	No. and date	Issued by	Subject
	S.O. 160, dated the 1st March 1958.	Election Commission, India.	Designation of the Returning Officer for the biennial election to the Council of States from the Union Territory of Delhi.
	S. O. 161, dated the 1st March 1958.	Do.	Appointment of an Assistant to the Returning Officer for the biennial election to the Council of States from the Union Territory of Delhi.
	S.O. 162, dated the 1st March 1958.	Do.	Fixation of hours for the biennial election to the Council of States from the Union Territory of Delhi.
16-A.	S. O. 162-A, dated the 1st March 1958.	Ministry of Information and Broadcasting.	Certification of films to be of the description specified therein.
17	S.O. 163, dated the 14th February 1958.	Election Commission, India.	Election Petition No. 9 of 1955.
18	S.O. 185, dated the 1st March 1958.	Ministry of Labour and Employment.	Awards of Central Government Industrial Tribunal, Calcutta.
	S. O. 186, dated the 1st March 1958.	Do.	Award of the Labour Court, Nagpur.
19	S.O. 187, dated the 4th March 1958.	Ministry of Labour & Employment.	Appointment of an officer and assessors for enquiring into the Central Bhowrah Colliery accident.
20	S. O. 188, dated the 8th March 1958.	Ministry of Transport and Communications	Constitution of an Inter State Transport Commission.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

### **PART II—Section 3—Sub-section (II)**

**Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).**

#### **ELECTION COMMISSION, INDIA**

*New Delhi-2, the 24th February 1958*

**S.O. 192.**—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, (XLIII of 1951), incurred by the person whose name and address are given below, as notified under notification No. BY-P/108/57/36) dated the 2nd July, 1957 has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

Shri Desai Suresh Jamletram, 21, Govindji Keni Road, Dadar, Bombay-14.

[No. BY-P/108/57/36-R]

By Order,

S. C. ROY, Secy.

**MINISTRY OF HOME AFFAIRS**

*New Delhi, the 28th February 1958*

**S.O. 193.**—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that, subject to his control, the Chief Commissioner or the Lt. Governor or the Administrator of a Union Territory shall, in relation to the Union Territory concerned, exercise the powers of a 'State Government' under sub-section (1) of Section 14 of the Prize Competitions Act, 1955, (42 of 1955).

[No. 27/23/55-P.II.]

J. N. DHAMIJA, Dy. Secy.

*New Delhi, the 28th February 1958*

**S.O. 194.**—In exercise of the powers conferred by entry 3(b) of the table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify Shrimati Krishna Kumari Devi, Yuvarni Sahiba of Surguja, for the purpose of that entry and directs that the exemption shall be valid in respect of 1 gun/rifle and 1 pistol/revolver.

[No. 16/3/58-Police-IV.]

S. RAJARAMAN, Under Secy.

*New Delhi, the 11th March 1958*

**S.O. 195.**—In exercise of the powers conferred by section 17 of the Indian Arms Act, 1878 (11 of 1878), the Central Government hereby makes the following further amendments in the Indian Arms Rules, 1951, namely:—

In the said rules,—

- (1) in rules 13, 14 and 15, after the word "sea" wherever it occurs, the words "or air" shall be inserted;
- (2) in the heading of Schedule V, after the word "sea" the words "or air" shall be inserted.

[No. 22/39/57-PIV.]

C.P. S. MENON, Dy. Secy.

**MINISTRY OF EXTERNAL AFFAIRS**

*New Delhi, the 11th February 1958*

**S.O. 196.**—Whereas by virtue of the agreement dated the 21st day of October, 1954, entered into between the Government of India and the Government of France, the Central Government has jurisdiction in and in relation to the State of Pondicherry;

Now, therefore, in exercise of the powers conferred by section 4 of the Foreign Jurisdiction Act, 1947 (47 of 1947), and all other powers enabling it in that behalf, the Central Government is pleased to make the following Order, namely:—

1. **Short title.**—This Order may be called the State of Pondicherry Registration of Companies (Validation) Order, 1958.

2. **Validation of registration of certain companies.**—All companies registered in the State of Pondicherry between the 1st day of November, 1954 and the 31st day of March, 1957 under *Code du Commerce* or other French law relating to companies in the belief or purported belief that the *Code du Commerce* or other French law continued in force in the State of Pondicherry on or after the 1st day of November, 1954 notwithstanding the provisions contained in the French Establishments (Application of Laws) Order, 1954, shall be deemed to have been registered in accordance with law and shall be deemed to be companies incorporated and registered under the Indian Companies Act, 1913, as in force in the State of Pondicherry.

**3. Exemption from the application of the Indian Companies Act, 1913.**—The provisions contained in the Indian Companies Act, 1913, shall be deemed not to have applied to any such company as is referred to in paragraph 2 during the period mentioned in that paragraph if by reason of such application an obligation would have been imposed on the company which the company had not, or could not have, discharged.

[No. F. 51(133)/56-Eur.E.]

*New Delhi, the 19th February 1958*

**S.O. 197.**—In pursuance of sub-section (2) of Section 7 of the Port Haj Committees Act, 1932 (XX of 1932), the Central Government is pleased to nominate Shri R. N. Chaudharie, Divisional Superintendent (General), Western Railway, Bombay Central, Bombay, as a member of the Port Haj Committee, Bombay *vice* Shri D. D. Sethna.

[No. 114-WANA/58.]

ANTHONY G. MENESES, Dy. Secy.

*New Delhi, the 7th March 1958*

**S.O. 198.**—In exercise of the powers conferred by clause (b) of sub-section (2) of section 3 of the Special Marriage Act, 1954 (43 of 1954), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of External Affairs No. S.R.O. 3449 (SMA-53) dated the 20th October, 1955 namely:—

In the Table below the said notification, in the entries in column 2 relating to "Germany including West Berlin" in Column 1, for the words "Consul, Indian Consulate, Hamburg", the following words shall be substituted, namely:—

"Consul General, Indian Consulate General, Hamburg".

[No. 8(4)Cons./58.]

S. N. SHEOPORI, Under Secy.

## MINISTRY OF FINANCE

(Department of Economic Affairs)

*New Delhi, the 28th February 1958*

**S.O. 199.**—In exercise of the powers conferred by Section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that in the case of any banking company incorporated in the State of Travancore-Cochin as it existed on the 31st October 1956, which is confining its activities to the territories comprised in that State, the provisions of sub-section (1) of section 24 of the said Act shall not apply for the period from the 1st April 1958 to the 31st March 1959, in so far as such provisions require such banking company to maintain in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount in excess of seventeen and a half per cent of the total of its time and demand liabilities in India.

[No. F.4(22)-F-1/58.]

R. K. SESHADRI, Dy. Secy.

## (Department of Economic Affairs)

New Delhi, the 3rd March 1958

S. O. 200.—Statement of the Affairs of the Reserve Bank of India, as on the 21st February 1958

## BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	24,10,98,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	10,06,000
National Agricultural Credit (Long-term Operations) Fund . . . . .	20,00,00,000	Subsidiary Coin . . . . .	2,78,000
National Agricultural Credit (Stabilisation) Fund . . . . .	2,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal . . . . .	..
(a) Government		(b) External . . . . .	..
(1) Central Government . . . . .	51,00,76,000	(c) Government Treasury Bills . . . . .	2,49,56,000
(2) Other Governments . . . . .	16,73,20,000	Balances held abroad* . . . . .	31,75,43,000
(b) Banks . . . . .	77,34,07,000	**Loans and Advances to Governments . . . . .	39,71,82,000
(c) Others . . . . .	113,04,04,000	Other Loans and Advances† . . . . .	64,67,62,000
Bills Payable . . . . .	17,75,35,000	Investments . . . . .	240,58,21,000
Other Liabilities . . . . .	36,66,35,000	Other Assets . . . . .	16,07,31,000
Rupees . . . . .	419,53,77,000	Rupees . . . . .	419,53,77,000

\*Includes Cash &amp; Short term Securities.

\*\*Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 24,10,27,000 advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 21st day of February 1958

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes he'd in the Banking Department . . . . .	24,10,98,000	1570,11,58,000	A. Gold Coin and Bullion :—		
Notes in circulation . . . . .	1546,00,60,000		(a) Held in India . . . . .	117,76,03,000	
Total Notes issued . . . . .			(b) Held outside India . . . . .	..	
			Foreign Securities . . . . .	245,53,81,000	
			TOTAL OF A . . . . .		363,29,84,000
			B. Rupee Coin . . . . .		129,99,46,000
			Government of India Rupee Securities . . . . .		1076,82,28,000
			Internal Bills of Exchange and other commercial paper . . . . .		..
TOTAL LIABILITIES . . . . .		1570,11,58,000	TOTAL ASSETS . . . . .		1570,11,58,000

ated the 26th day of February 1958.

H. V. R. INNGAR, Governor.

[No. F3(2)-P.I/58.]

New Delhi, the 7th March 1958

S.O. 201.— Statement of the Affairs of the Reserve Bank of India, as on the 28th February 1958.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	25,06 23,00
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	9,82,000
National Agricultural Credit (Long-term Operations) Fund . . . . .	20,00,00,000	Subsidiary Coins . . . . .	2,70,000
National Agricultural Credit (Stabilisation) Fund . . . . .	2,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal . . . . .	..
(a) Government		(b) External . . . . .	..
(1) Central Government	56,60,15,000	(c) Government Treasury Bills	3,48,41,000
(2) Other Governments	15,66,93,000	Balances held abroad*	34,24 62,000
(b) Banks . . . . .	75,45,85,000	**Loans and Advances to Governments	38,25,58,000
(c) Others . . . . .	112,84,42,000	Other Loans and Advances†	66,59,82,000
Bills Payable . . . . .	16,54,00,000	Investments . . . . .	239,74,90 0 0
Other Liabilities . . . . .	36,75,61,000	Other Assets . . . . .	13,34,88,000
<b>TOTAL</b>	<b>420,86,96,000</b>	<b>TOTAL</b>	<b>420,86,96,000</b>

\*Includes Cash and Short term Securities.

\*\*Includes temporary overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs 22,16,66,000 advanced to scheduled banks against usance bills under Section 17 (4) (c) of the Reserve Bank of India Act.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 28th day of February 1958  
ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	25,06,23,000		A. Gold Coin and Bullion —		
Notes in circulation	1545,26,06,000		(a) Held in India .	117,76,03,000	
Total Notes issued		1570,32,29,000	(b) Held outside India .	..	
			Foreign Securities . .	245,53,81,000	
			Total of A		363,29,84,000
			B. Rupee Coin . .		130,20,17,000
			Government of India Rupee Securities		1076,82,28,000
			Internal Bills of Exchange and other commercial paper .		..
Total Liabilities		1570,32,29,000	Total Assets		1570,32,29,000

Dated the 5th day of March 1958.

H. V. R. IENGAR, GOVERNOR.  
[No. F (2)-F 1/58]  
A. BAKSI, Jt. Secy.



(Department of Revenue)

INCOME-TAX

New Delhi, the 1st March 1958

S.O. 202.—In pursuance of the provisions of item (iii) of sub-paragraph (1) of paragraph 15 of the Part B States (Taxation Concession) Orders, 1950, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Revenue Division) No. 31 dated the 14th May, 1954, namely:—

In the Table annexed to the said notification for Serial No. 56 and the entries relating thereto, the following shall be substituted, namely:—

"56. Ratan Bhuvan Palace, Chuda. Ruler of Chuda".

[No. 24.]

P. N. DAS GUPTA, Dy. Secy.

*Explanatory Note*

(This does not form part of the amendment but is intended to be merely clarificatory).

The amendment has become necessary as "Old Darbargadh" has ceased to be an official residence of the Ruler of Chuda.

RESERVE BANK OF INDIA

(Central Office)

Bombay the 10th February, 1958

S.O. 203.—In pursuance of the notification of the Government of India in the Finance Department No. 12(13)-FI/47 dated the 25th March 1947, the Reserve Bank hereby directs that the following further amendments shall be made in the schedule to the notification of the Reserve Bank of India No. F.E.R.A. 10/47-R.B. dated the 25th March 1947, namely:—

In the said Schedule—

- (a) the entries "Grindlays Bank Ltd." and "National Bank of India Ltd." shall be omitted.
- (b) for the entry "Mercantile Bank of India Ltd." the entry "Mercantile Bank Ltd." shall be substituted.
- (c) after the entry "National Bank of Pakistan" the entry "National Overseas and Grindlays Bank Ltd." shall be inserted.

[No. F.E.R.A. 158/58-R.B.]

H. V. R. IENGER,

Governor

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 27th February 1958

S.O. 204.—In pursuance of sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Board of Revenue hereby makes the following further amendments in its Notification S.R.O. 2023 (No. 68—Income-tax), dated 15th June, 1957, namely:—

In the Schedule annexed to the said notification under the sub-head "VIII—Delhi & Rajasthan", for the existing entries in columns 1 and 2, the following entries shall be substituted:—

"A" NEW DELHI

1. All Companies Circles, New Delhi.
2. Central Circles, I(I), IV, V, VI and VII, Delhi.
3. B-I, B-II and B-III Districts, New Delhi.
4. B-IV and B-IV(I) Districts, New Delhi.
5. All Contractors Circles, New Delhi.
6. Ward No. VIII, Delhi.
7. Evacuee Circle, Delhi.
8. A—Ward, Bharatpur.
9. Alwar.

10. Multipurpose Project Circle, Rajasthan, Kotah. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Officer, Alwar), and
11. Multipurpose Project Circle, Rajasthan, Ajmer. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Officer, Alwar).

#### "B" NEW DELHI

1. Central Circles I, II and III, Delhi.
2. Special Circle, New Delhi.
3. A-I, A-II, A-III, A-IV and A-IV(I) Districts, New Delhi.
4. B-V, B-V(I), B-VI, B-VI(I), B-VII, B-VII(I) Districts, New Delhi.
5. C-I, C-I(I) and C-II Districts, New Delhi.
6. All Business Circles, New Delhi.
7. Central Circle II, New Delhi and
8. Ward Nos. VI, IX(1), IX(2), IX(3), IX(4) and IX(5), Delhi.

#### "C" NEW DELHI

1. Salary Circle, Delhi.
2. Estate Duty cum Income-tax Circle, New Delhi.
3. B-XV District, New Delhi to B-XVIII District, New Delhi.
4. All Private Salary Circles, New Delhi.
5. Foreign Section, Delhi.
6. Survey Wards Nos. I and II, Delhi, and
7. Ward Nos. I(1), I(2), II, III, IV & V, Delhi.

#### "D" NEW DELHI

1. B-VIII District, New Delhi to B-XIV District, New Delhi.
2. Ward Nos. VII(1), VII(2), VII(3) and VII(4), Delhi.
3. Beawar.
4. Ajmer.
5. Multipurpose Project Circle, Rajasthan, Kotah. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Wards specified in entries 3 & 4).
6. Multipurpose Project Circle, Rajasthan, Ajmer (excluding jurisdiction assigned to other Appellate Assistant Commissioners).

### JAIPUR

1. All Income-tax Wards having headquarters at Jaipur,
2. Estate Duty *cum* Income-tax Circle, Jaipur,
3. All Income-tax Wards having headquarters at Udaipur, and
4. Multipurpose Project Circle, Rajasthan, Kotah. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Wards specified in entries 1 to 3), and
5. Multipurpose Project Circle, Rajasthan, Ajmer. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Wards specified in entries 1 to 3).

### JODHPUR

1. All Income-tax Wards having headquarters at Jodhpur.
2. All Income-tax Wards having headquarters at Sriganganagar.
3. All Income-tax Wards having headquarters at Bikaner.
4. Multipurpose Project Circle, Rajasthan, Kotah. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Wards specified in entries 1 to 3).
5. Multipurpose Project Circle, Rajasthan, Ajmer. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Wards specified in entries 1 to 3).

### KOTAH

1. All Income-tax Wards having headquarters at Kotah.
2. B—Ward, Bharatpur.
3. Bharatpur.
4. Multipurpose Project Circle, Rajasthan, Kohat (excluding jurisdiction assigned to other Appellate Assistant Commissioners), and
5. Multipurpose Project Circle, Rajasthan, Ajmer. (In respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Wards specified in entries 1 to 3).

The notification shall come into force from the 10th day of March, 1958.

[No. 23 (F. No. 50/16/58-IT.)]

B. V. MUNDKUR, Under Secy.

#### *Explanatory Note*

NOTE.—The amendments have become necessary on account of the reorganisation of the Appellate Assistant Commissioners Ranges in the charge of the Commissioner of Income-tax, Delhi and Rajasthan.

(This note does not form a part of the notification but is intended to be merely clarificatory.)

## MINISTRY OF COMMERCE AND INDUSTRY

## ORDER

New Delhi, the 4th March 1958

**S. O. 205—IDRA/6/13.**—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby establishes for the scheduled industries engaged in the manufacture or production of Soaps, Paints and Plastics, a Development Council to be known as the Development Council for Oil-based Industries which shall consist of the following members, name:—

- (a) 1. Shri P. A. Nariciwala, M/s. Tata Industries Private Ltd., Bombay House, Fort, *Bombay-1.*
2. Mr. S. H. Turner, Technical Director, M/s. Hindustan Lever Ltd., Sciendia House, Balard Estate, *Bombay-1.*
3. Dr. J. S. Badami, General Manager, M/s. Swastik Oil Mills Ltd., Post Box No. 362, *Bombay.*
4. Dr. V. S. Bhatt, Hind Soap Factory, Bhulla Nala, *Banaras.*
5. Shri Minoo J. Wadia, M/s. Diana Soap Co., Sussex Road Near Victoria Garden, *Bombay.*
6. Mr. R. R. Hill M/s. Alkali & Chemical Corporation of India Ltd., Development Department (Paints), 34, Chowringhee *Calcutta-16.*
7. Dr. U. K. Benegal, Technical Adviser, M/s. British Paints (India) Ltd., 32, Chowringhee Road, *Calcutta-16.*
8. Shri A. K. Gup a, General Manger, M/s. Addisons Paints & Chemicals (Private) Ltd., Sembiam, *Madras-11.*
9. Shri P. C. Chanda, C/o M/s. P. C. Chanda & Co. Ltd., P-2, Mission Row Extension, *Calcutta-1.*
10. Shri B. D. Garware, Chowpatty Chambers, Sandhurst Bridge, *Bombay-7.*
11. Shri H. N. Patel, Director, M/s. Bakelite (India) Private Ltd., India House, P.B. 1948, *Bombay-1.*
12. Shri C. J. Dadachanji, M/s. National Carbon Company (India) Ltd., Kasturi Building, Jamshedji Tata Road, *Bombay-1.*
13. Shri T. W. Bhojwani, Mgg. Director, M/s. Bright Brothers Private Ltd., 156-A Tardeo Road, *Bombay-7.*
14. Shri D. M. Trivedi, Works Manager, M/s. Polychem Ltd., 100, Ghodbunder Road (B. S. D.), *Goregaon.*
15. Shri N. Srinivasan, Development Officer, Development Wing, Ministry of Commerce & Industry, *New Delhi.*
16. Dr. S. Husain Zaheer, Director, Regional Research Laboratory, *Hyderabad.*
17. Dr. (Mrs.) Maitreyee Bose, President—INTUC Bengal Branch, 3, Commercial Building, 23, Netaji Subash Road, *Calcutta.*
18. Shri J. C. Dixit, General Secretary, INTUC —U.P. Branch, Shansha Manzil, Baroodkhana, Golaganj, *Lucknow.*
19. Shri S. Ramanujam, Deputy Director, (Metallurgical & Chemical) R.D.S.O., *Chittaranjan.*
20. Dr. V. Ranganathan, Control Officer, Chemical Branch, Technical Development Establishment Laboratories P.B. No. 320, *Kanpur.*

being persons who in the opinion of the Central Government are capable of representing the interests of owners of industrial undertakings in the said scheduled industries.

being persons who in the opinion of the Central Government have special knowledge of matters relating to the technical or other aspects of the said scheduled industries.

being persons who in the opinion of the Central Government are capable of representing the interests of persons employed in industrial undertakings in the said scheduled industries.

being persons who in the opinion of the Central Government are capable of representing the interests of consumers of goods manufactured or produced by the said scheduled industries.

and (b) one other member to be hereafter specified by the Central Government who will be a person capable of representing the interests of persons employed in industrial undertakings in the said scheduled industries.

2. Shri P. A. Narielwala shall be the Chairman of the said Development Council.
3. The Central Government hereby assigns the following functions to the said Development Council, namely:—
  1. Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.
  2. Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs.
  3. Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units.
  4. Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumer.
  5. Promoting standardisation of products.
  6. Promoting or undertaking the collection and formulation of statistics.
  7. Promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.

[No. 5-(32)IA(II)(G)/57]

K. C. MADAPPA, Dy. Secy.

#### CORRIGENDUM

*New Delhi, the 4th March 1958*

S.O. 206.—In the Ministry of Commerce and Industry Order No. S.R.O. 2820/IDRA/6/12, dated the 31st August, 1957, published in the Gazette of India Part II Section 3 dated the 7th September, 1957:—

For "3. Shri A. K. Wattal, Dholpur House, Agra."

Read "3. Shri A. K. Wattal, Aerodrome Road, Baghat Barzala, Srinagar, (Kashmir)."

[No. 5(23)IA(II)(G)/57.]

P. V. B MENON, Under Secy.



#### (Indian Standards Institution)

*New Delhi, the 18th February 1958*

S.O. 207.—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution hereby notifies that the Standard Marks, designs of which together with the verbal description of the design and the title of the related Indian Standard are given in the Schedule hereto annexed, have been specified.

These Standard Marks, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the rules and regulations framed thereunder, shall come into force with effect from 1st March 1958.

## THE SCHEDULE

Sl. No	Design of the Standard Mark	No. and title of relevant Indian Standard	Verbal description of the design of the Standard Mark
1	2	3	4
1		IS:261-1950 Specification for Copper Sulphate, Technical	The monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (1), the number designation of the Indian Standard being superscribed at the top of the monogram as indicated in the design.
2		IS: 324-1952 Specification for Denatured Spirit	The monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (1), the number designation of the Indian Standard being inscribed in the top side of the monogram as indicated in the design.

LAL C. VERMAN,  
Director.

[No. MDC/11(5).]

S.O. 208.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution notifies that the marking fees per unit for certain products/class of products, details of which are given in the Schedule hereto annexed, have been determined and these fees shall come into force with effect from 1st March 1958.

## THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of Relevant Indian Standard	Unit	Marking Fee per Unit
1	Copper Sulphate, Technical	IS:261-1950 Specification for Copper Sulphate, Technical	One ton	Rs.2.00
2	Denatured Spirit	IS:324-1952 Specification for Denatured Spirit	One thousand and bulk gallons	Rs.8.00 per unit for the first 200 units Rs.6.00 per unit for the next 300 units Rs. 4.00 per unit for the 501st unit and over.

LAL C. VERMAN,  
Director.

[No. MDC/11(6).]

## MINISTRY OF STEEL, MINES & FUEL

(Deptt. of Mines and Fuel)

### ERRATUM

In the Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) Corrigendum No. C2-7(91)/57, dated the 14th February 1958, published as S.O. 88 in the Gazette of India, Part II-Sec. 3(ii), dated the 22nd February 1958, for the figure and word "4.04 acres" in column 3 of the schedule read "4.4 acres".

## MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

New Delhi, the 14th February 1958

S.O. 209.—In exercise of the powers conferred by clause (1) of sub-section (2) of section 3 of the Agricultural Produce (Development & Warehousing) Corporations Act, 1956, (28 of 1956), read with clause (v) of rule 3 of the Agricultural Produce (Development and Warehousing) Corporations Rules, 1956, the Central Government has nominated the Joint Secretary in charge of Internal Finance, Ministry of Finance, (Department of Economic Affairs), as a member of the National Cooperative Development and Warehousing Board in the place of the Secretary, Government of India, Ministry of Finance (Department of Economic Affairs) and hereby makes the following amendment in the notification of the Government of India in the Ministry of Food & Agriculture No. F. 8-1/56-Coop. I, dated the 31st August, 1956, namely:—

In the said notification, for the entry

"4. Secretary, Government of India, Ministry of Finance (Department of Economic Affairs)—*Ex-officio*",

the following entry shall be substituted, namely—

"4. Joint Secretary in charge of Internal Finance, Ministry of Finance (Department of Economic Affairs)—*Ex-officio*".

[No. 6-1/58-Coop.I.]

B. S. RAMDAS, Under Secy.

## MINISTRY OF HEALTH

New Delhi-2, the 1st March 1958

S.O. 210.—In exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (23 of 1940), the Central Government after consultation with the Drugs Technical Advisory Board, hereby makes the following further amendments in the Drugs Rules, 1945, the same having been previously published as required by the said sections, namely:—

In the said rules—

- (1) in sub-rule (9) of rule 65, for the words and letter "Schedule H" the words and letters "Schedules H & L" shall be substituted.
- (2) After Schedule K, the following shall be inserted, namely:—

"SCHEDULE L. [See Rule 65(9)]"

- (1) Bacitracin.
- (2) Chloramphenicol.
- (3) Chlortetracycline.
- (4) Erythromycin.
- (5) Gramicidin.
- (6) Megnamycin.
- (7) Neomycin.
- (8) Oxytetracycline.
- (9) Penicillin.
- (10) Streptomycin.
- (11) Tetracycline.
- (12) Tyrothricine.
- (13) Viomycin.

Isonicotinic acid hydrazide and other hydrazine derivatives of Isonicotinic acid; their derivatives; their salts.

Para-aminosalicyclic acid; its salts and their preparations".

[No. F.1-88/57-D.]

**S.O. 211.**—The following draft of certain further amendments in the Drugs Rules, 1945, which the Central Government proposes to make in exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (23 of 1940) read with the proviso to sub-section (1) of the said section 12 and sub-section (1) of the said section 33, is published as required by the said sections for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 8th April, 1958; any objection or suggestion which may be received with regard to the said draft before the date so specified will be considered by the Central Government.

#### *Draft Amendments.*

In the said rules—

(1) in rule 61—

(i) in sub-rule (1), for the words, figures and letters "Form 20, 20-A and 20-B respectively", the following shall be substituted, namely:—

"Forms 20, 20-A or 20-B, as the case may be";

(ii) in sub-rule (2), for the words, figures and letters "Forms 21, 21-A and 21-B respectively",

the following shall be substituted, namely:—

"Forms 21, 21-A or 21-B, as the case may be";

(2) in rule 65, for the words, figures and letters "Forms 20, 20-A, 21 and 21-A", the following shall be substituted, namely:—

"Forms 20, 20-A, 20-B, 21, 21-A and 21-B";

(3) in sub-rule (1) of rule 71, after clause (c) the following proviso shall be inserted, namely:—

"Provided that any person who was immediately before the 29th June, 1957, actively directing and personally supervising the manufacture of drugs and whose name was accordingly entered in any licence granted in form 25 as it existed before that date shall be deemed to be qualified for the purposes of this rule".

(4) in sub-rule (1) of rule 76, after clause (c) the following proviso shall be inserted, namely:—

"Provided that any person who was approved by the licensing authority as an expert responsible for the manufacture of drugs for the purpose of rule 76 read with rule 78 as these rules were in force immediately before the 29th June, 1957, shall be deemed to be qualified for the purposes of this rule".

(5) in rule 127 under item (3)—

(i) the entry "Orange" in column 1 and the corresponding entry "Orange (CI 150)" in column 2 shall be omitted;

(ii) against the entry "Blue" in column 1, the entry "Brilliant Blue" in column 2 shall be omitted;

(6) in rule 128, after the words and figures "West Bengal Drugs Rules, 1946", the words and figures "Mysore Drugs Rules, 1954" shall be inserted.

(7) in form 21—

(i) for condition 2, the following condition shall be substituted, namely:—

"2. The licensee shall report to the licensing authority any change in the qualified staff in charge within one month of such change".

(ii) for the words, figures and brackets "rule 61(1)" the words, figures and brackets "61(2)" shall be substituted;

(8) in form 21-A, the following new condition shall be inserted:—

"3. The licensee shall deal only in such drugs as can be sold without the supervision of a "qualified person" defined in the Explanation to sub-rule (15) of rule 65 of the Drugs Rules, 1945".



(9) in form 21-B

(i) the words "for purposes of resale" occurring in condition No. 4 shall be omitted;

(ii) for clause (b) of condition No. 4 the following shall be substituted, namely:—

"(b) a hospital, medical, educational or research institution, or a registered medical practitioner for the purpose of supply to his patients."

(10) in Schedule H, in paragraph 3 before the word "Dinitrocresols" the following shall be inserted, namely:—

"Chloral Hydrate".

[No. F.1-88/57-D.]

D. J. BALARAJ, Dy. Secy.

## MINISTRY OF TRANSPORT AND COMMUNICATIONS

### (Posts and Telegraphs)

*New Delhi, the 26th February 1958*

S.O. 212.—In exercise of the powers conferred by Sections 25 and 74 of the Indian Post Office Act, 1898 (6 of 1898), the Central Government hereby makes the following amendments in the Indian Post Office Rules 1933, namely:—

In the said rules,

1. rules 218, 219 and 222 shall be omitted;

2. in rule 224 under the heading 'list of officers', the following shall be added at the end, namely:—

"(4) All Head Postmasters".

[No. CF 69-13/54.]

K. K. SARAN, Dy. Secy.

### (Depths. of Commns. and Civil Aviation)

*New Delhi, the 8th March 1958*

S.O. 213.—In exercise of the powers conferred by Section 4 of the Air Corporations Act, 1953 (27 of 1953), the Central Government hereby appoints Shri B. R. Patel, I.C.S., General Manager, Air India International Corporation, as a member of the Indian Airlines Corporation.

[No. 3.CA(1)/57.]

K. K. UNNI, Dy. Secy.

### (Office of the Dir.-Genl. of Posts and Telegraphs)

#### ORDER

*New Delhi, the 3rd March 1958*

S.O. 214.—In exercise of the powers conferred by sub-section (3) of section 21 of the Indian Post Office, Act, 1898 (6 of 1898), the Director General hereby makes the following further amendment in the Post Boxes Order, 1956, namely:—

For Sub-paragraph (3) of paragraph 10 of the said Order, the following shall be substituted, namely:—

"(3) If, at any time during the period of rental, the key of the lock or lock is lost by the renter, or the key or the lock or both are not in working condition, it will be obligatory on the part of the renter to bring the matter immediately to the notice of the Postmaster and to credit the cost of both the lock and key in case both the lock and key or only the lock is lost or damaged or the cost of the key only, in case the key is lost or damaged, failing

which the deposit made by him shall be forfeited. On the crediting of the cost by the renter, he shall be supplied with a new lock and key or key as the case may be, by the Postmaster.

In addition to the cost of the key or of both the lock and key, as the case may be, the renter will have to pay postage charges, if any, and the Money Order commission charges for remittance of the amount representing the cost of the key or both the lock and key to the suppliers, if the supplying firm or a branch thereof is not at the same station.

NOTE.—In case of loss or damage to the key, the renter as a security measure, may, if he so desires, deposit the cost of both the lock and key including the M.O. commission in which case a new lock and key will be supplied to him."

[No. C. 17-6/52.]

L. K. NARAYANASWAMI,  
Director Postal Technical.

## MINISTRY OF IRRIGATION AND POWER

### ORDER

*New Delhi, the 4th March 1958*

S.O. 215.—In exercise of the powers conferred by sub-rule (2) of rule 133 of the Indian Electricity Rules, 1956, the Central Government hereby directs that the provision of (i) proviso (a) of rule 118 and (ii) sub-rule (7) of rule 123 of the said rules, shall be relaxed in the case of the use of two Ruston Bucyrus Model 54 R. B., electrically driven excavating shovels, serial Nos. RB21663 and RB21664 being the property of the Neyveli Lignite Corporation Private Ltd. comprising 125 H. P., 3300 volts, main driving squirrel cage motors, in the quarriable areas of the said lignite mine at Neyveli, to the extent (i) that the working voltage of the main driving motors of the said transportable excavating machines may not exceed 3300 volts, and (ii) that the length of the flexible cable with each of the transportable machines may not exceed 1,000 ft., respectively, and that the relaxation shall be subject to the following conditions:

- (1) The excavating machines shall be worked with due care so as to avert danger arising out of any electrical defect and the insulation resistance of the high voltage circuit including the main driving motors shall not be less than 10 megohms,
- (2) The flexible trailing cables for use with the excavating machines shall be worked with due care so as to avert any danger arising out of it, shall be of adequate size and of the type 324 of B.S.S. 1116/1956 and shall be connected to the electricity supply system and the machines by properly constructed connector boxes;

Provided that the aforesaid relaxation shall be valid only for such time as the said machines are in use in the mine and that due information shall be given to the Central Government through the Electric Inspector of Mines as soon as any of the machines is taken out of the mine.

[No. EL-III-353(14)/58.]

N. S. VASANT,  
Officer on Special Duty.

## MINISTRY OF LABOUR AND EMPLOYMENT

*New Delhi, the 1st March 1958*

S.O. 216.—Whereas the Central Government is of the opinion that Shri Biswanath Dubey, who was appointed by the Notification of the Government of India in the Ministry of Labour No. S.R.O. 127 dated the 2nd January, 1957, as a member of the Dock Workers Advisory Committee to represent dock workers in the port of Calcutta has ceased to be representative of those workers, it is hereby

notified that the said member shall be deemed to have vacated his office under sub-rule (4) (e) of rule 7 of the Dock Workers (Advisory Committee) Rules, 1949.

[No. Fac.175(21)/58.]

*New Delhi, the 7th March 1958*

S.O. 217.—In pursuance of sub-clause (9) of clause 42 of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, the Central Government hereby appoints a single member Committee consisting of Shri F. Jeejeebhoy, Chairman, Labour Appellate Tribunal, Bombay, to examine the report of the Calcutta Piece-rate Committee appointed in the notification of the Government of India in the Ministry of Labour No. S.R.O. 742, dated the 1st March, 1957 and after hearing such organisations and persons as the Committee may deem fit, to make such recommendations to the Central Government as it may consider suitable.

[No. Fac. 175(16)/58.]

K. N. NAMBIAR, Dy. Secy.

*New Delhi, the 3rd March 1958*

S.O. 218.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment being a factory known as Factory No. 2 of M/S. Steels, Worth Ltd., Tezpur, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. PF-II-9(10)/58.]

BALWANT SINGH, Under Secy.

*New Delhi, the 4th March 1958*

S.O. 219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following awards of the Labour Court, Nagpur, in the Industrial dispute between the employers in relation to the North Chirimiri Colliery and their workmen.

BEFORE SHRI P. D. VYAS, JUDGE LABOUR COURT, NAGPUR, AT BOMBAY  
(Sitting at Calcutta)

REFERENCE (LC) No. 1 of 1957

Adjudication

BETWEEN

The North Chirimiri Colliery

AND

Their Workmen.

In the matter of an industrial dispute relating to the termination of services of a workman.

APPEARANCES:

For the North Chirimiri Colliery—Shri Madanlal, Labour Officer.

For the Workmen—Shri D. L. Sen Gupta, Advocate.

AWARD

The Central Government in exercise of the powers conferred by clause (c) of sub-section (1) of section (10) of the Industrial Dispute Act 1947 (14 of 1947) has made this Reference for adjudication of an industrial dispute between the North Chirimiri Colliery and their workmen by an order No. LR-II-55-2-(19)/57, dated 1st May 1957. The dispute relates to the matter specified in the Schedule annexed thereto.

### THE SCHEDULE

"Termination of services of Shri Siva Prasad Awasthy and the relief, if any, to which he is entitled."

2. On the usual notices being issued, the General Secretary, Chhattisgarh Colliery Workers' Federation has filed the statement of claims on behalf of the workmen and the Manager, North Chirimiri Colliery has filed the written statement on behalf of the management of the said colliery.

3. The concerned workman is one Shri Siva Prasad Awasthy who was working as a mechanic in the North Chirimiri Colliery. The case of the workmen on his behalf is that with a view to victimize him for his trade union activities, the management of the colliery issued a transfer order on 28th January 1956 whereby he was called upon to resume his duties at the Kamptee Colliery. The North Chirimiri Colliery is under the management of United Collieries Ltd., whereas the Kamptee Colliery belongs to a different company named Messrs. Kasta and Bihar Collieries Ltd. Both the collieries not being under the same management, the workman concerned requested the manager to cancel the transfer order but it was not so done and though he continued his duties upto 10th February 1956 at the North Chirimiri Colliery, later on he was stopped from work without any charge-sheet or enquiry. The termination of his services should thus be treated as wrongful and he should be reinstated with full back wages and the other amenities which he enjoyed.

4. The Management alleges that Shri Siva Prasad was originally appointed at the Rawanwara Khas Colliery and in the year 1950 he was transferred to the North Chirimiri Colliery, both being under the Managing Agency of Karam Chand Thapar & Bros., Private Ltd. The management denies knowledge of his trade union activities and states that the motive behind his transfer was to give him an independent chance at some colliery where he would have better prospects. The Kamptee Colliery is also under the Managing Agency of Messrs. K. C. Thapar & Bros. Private Ltd. and accordingly the transfer order was issued directing him to report for duty at the said colliery with effect from 6th February 1956. His request for cancellation of the transfer order was, in the circumstances, not correct and after the transfer order, he was supposed to report for duty at the Kamptee Colliery and not at the North Chirimiri Colliery. He worked at the North Chirimiri Colliery upto 30th January 1956 and not upto 10th February 1956 and on 30th January 1956 when he reported for duty he was explained the true position. Notwithstanding that he having failed to report for duty at the Kamptee colliery it meant that he had voluntarily terminated his services and there arose no question of issuing any charge-sheet or making an enquiry.

5. It is an undisputed fact that the concerned workman was in employment at the North Chirimiri Colliery and under the transfer order he was called upon to report for duty at the Kamptee Colliery with effect from 6th February, 1956. It is also an undisputed fact that these are two different companies, though under the management of the same Managing Agency named Messrs. Karam Chand Thapar & Bros., Private Ltd. It is a common ground between the parties that the transfer order in question was issued under the Standing Order No. 26 of the Standing Orders for the Coal Mining Industry. The same Standing Order says: "workmen are liable to be transferred from one department to another or from one station to another or from one colliery to another under the same management provided such transfer does not cause any prejudice to their wages and other conditions of service and provided that reasonable notice is given for such transfer". Thus apart from the question whether the wages and other conditions of service remain unaffected and a reasonable notice of such transfer has been given, what is contemplated under this Standing Order is that if the transfer is from one colliery to another it should be under the same management. The term 'management' is not defined under the Standing Orders and in the case before us it has been contended on behalf of the employers that though the two collieries named North Chirimiri Colliery and Kamptee Colliery belong to different companies, they being under the management of the same Managing Agents should be deemed to be under the same management. For this purpose my attention was drawn to the definition of the term 'management' in the Standing Orders governing the conditions of employment of workmen in vacuum pan Sugar Factories of Uttar Pradesh at page 33 of Indian Factories Journal, Vol. IX—December 1955. According to the definition there given 'management' means "the managing director of a factory, the managing agent or managing agents proprietor or proprietors, a partner or partners or such other person or persons or body or bodies of persons having authority to manage the affairs of a factory". Obviously the definition there given is to suit the purposes and requirements of the particular Standing

Orders relating to certain Sugar Factories of Uttar Pradesh and it could hardly be made applicable to the Standing Orders of the Coal Mining Industry. Besides, in the said Standing Orders there is no provision of a transfer from one sugar factory to another and if the definition as there given were accepted for the purposes of a transfer, it would lead to absurd results inasmuch as the managing Agent or Agents may be in the management of several concerns of an altogether different character. On behalf of the workmen, reliance was placed on a decision dated 13th November, 1956 of the Labour Appellate Tribunal of India in appeal No. Cal. 149 of 1956 against the award of All India Industrial Tribunal (Colliery Disputes) dated 24th April, 1956 in Application No. 29 of 1955 under section 33A of Industrial Dispute Act. The Tribunal below while considering the question of a transfer under the Standing Order No. 26 for the Coal Mining Industry observed:

"As for the point that the company can transfer the workmen to any colliery under the same Managing Agency, it turns upon the interpretation of the word "Management" in Standing Order 26. The company wants to argue that the word "management" would cover the Managing Agents. It is needless to labour the point as there is no doubt that "management" can only refer to the company which is a legal entity and not to their Managing Agents. A single Managing Agent, as we often see, can take up the managements of a large number of companies. But the managing agent gets his power to manage each company from the owner of that company and cannot mix up the affairs of one company with that of others."

"Rule 26 referred to above states that all workmen are liable to be transferred from one colliery to another under the same management. This could only mean that the workman can be transferred from one colliery to another under the management of that company, M/s. Bhowra Kankanee Collieries Ltd., whoever its managing agents are and not from one colliery of that company to another colliery of a different company merely because the managements of both the companies are in the hands of the same managing agency."

The Calcutta Bench of the Labour Appellate Tribunal of India in upholding this view on appeal before it, referred to the definition of the expression 'managing agent' in section 2(9-4) of Indian Companies Act, 1913 and laid down that

"the managing agents are entitled to the management of the whole affairs of the company under the control and direction of the directors of the company concerned. In the three companies with which we are concerned the Boards of Directors are different. If so, the Managing Agents of the Pootkee Colliery were not justified in ordering the transfers of Shri K. P. Mitra and Shri Santi Prakash from Pootkee Colliery to other collieries."

On the same reasoning which I adopt with respect, the stand taken up by the employers in the present case cannot be accepted as correct and simply because the Managing Agents are the same, it cannot be said that the two collieries owned by two different companies are under the same management.

6. If really the order of transfer was permissible under the Standing Order No. 26 and the concerned workman disobeyed the same, it was open to the employers to take action under the Standing Orders for the misconduct "insubordination or disobedience..... of any lawful or reasonable order of a superior". In the present case the management has proceeded under the misapprehension that as the concerned workman failed to report for duty at Kamptee Colliery in compliance with the transfer order, he had voluntarily terminated his services. He was accordingly informed by the manager of the North Chirimiri Colliery under his letter dated 15th February 1956:

"The Manager Kamptee Colliery informs me that you have not reported yourself on duty at that colliery on 6th February 1956, which means that you have voluntarily terminated your service. You must therefore vacate the quarters occupied by you as I have to allot it to some one else".

This was an entirely incorrect procedure based on a wrong view of the matter and this cannot be treated as a case of voluntary abandonment of service. Immediately after he was served with the order of transfer, the concerned workman had moved for its cancellation and had approached the labour authorities for intervention making it a grievance that the order of transfer was

wrong and was meant to victimize him for his trade union activities. In any case if the Management thought that it was a reasonable and lawful order which the concerned workman disobeyed, such an act would amount to misconduct for which it was necessary to follow the proper procedure of a charge-sheet and an enquiry as required under the Standing Orders.

7. Thus on no ground the termination of the services of the concerned workman can be treated as correct and manifestly the action on the part of the management is illegal and improper. I therefore direct that the concerned workman Shri Silva Prasad Awasthy shall be reinstated on his original post with full back wages and other amenities which he is entitled to.

P. D. Vyas,  
Judge, Labour Court.

*Dated the 10th February, 1958.*

**BEFORE SHRI P. D. VYAS, JUDGE, LABOUR COURT NAGPUR, AT BOMBAY.**  
(Sitting at Calcutta)

REFERENCE (LC) No. 4 of 1957.

Adjudication

BETWEEN

The North Chirimiri Colliery,

AND

Their workmen.

In the matter of an Industrial dispute relating to the alleged wrongful termination of the services of certain workmen.

**APPEARANCES:**

*For the North Chirimiri Colliery—Shri Mandanlal, Labour Officer.*

*For the workmen—Shri D. L. Sen Gupta, Advocate.*

**AWARD**

The Central Government in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has made this Reference for adjudication of an industrial dispute between the North Chirimiri Colliery and their workmen by Order No. LR-II-55-2(19)/57 dated 27th July, 1957. The dispute relates to the matter specified in the schedule annexed thereto.

**THE SCHEDULE**

"Alleged wrongful termination of the services of the following workmen and the relief, if any, to which they are entitled:

- (i) Shri Mangal Prasad, Ex-Pump Driver, North Chirimiri Colliery.
- (ii) Shri Prem Singh, Ex-Line Mistry, North Chirimiri Colliery."

2. On the usual notices being issued, the General Secretary, Chhattisgarh Colliery Federation has filed the statement of claims on behalf of the workmen, and the Manager, North Chirimiri Colliery has filed the written statement on behalf of the management of the said colliery.

3. The two concerned workmen whose services are alleged to have been wrongfully terminated are respectively Shri Mangal Prasad, Ex-Pump Driver and Shri Prem Singh, Ex-Line Mistry. The case on behalf of the workmen is that Shri Mangal Prasad was one of the active members of the Branch of the North Chirimiri Colliery of the Chhattisgarh Colliery Workers' Federation. The management desired to have signatures of the workmen on a declaration in order to ascertain who were the members of the said Branch and accordingly called upon Shri Mangal Prasad when he went on duty as usual to sign the said declaration. But Shri Mangal Prasad refused to give his signature and he was, therefore, not allowed by the Overman to join his duties. He approached in vain the Manager as well as the Agent of the Colliery to permit him to work, and the Management stopped him from work without any charge-sheet or enquiry because of his trade union activities. As regard Shri Prem Singh, the case of the workman is that due to illness in the month of June 1956 he was under medical treatment and on recovery when he went to resume his duties with a fitness certificate from the doctor of the colliery, he was not allowed to do

so. He approached the Manager continuously for six days in this connection but he was not taken back on work nor did the management reply to his application sent by registered post. He has been stopped from work with a view to victimize him for his trade union activities.

4. The management denies the alleged motive of victimization and states in the case of Shri Mangal Prasad that he remained absent from 24th January, 1956 and since thereafter he never approached the Manager and/or the Agent. He having remained absent for a long time lost lien on his post as per rule 20(16) of the standing orders for the North Chirimiri Colliery. According to the management thus he has not been discharged or dismissed, and there arises no question of issuing any charge-sheet and/or holding an enquiry. As regards Shri Prem Singh, the management alleges that he never approached the Manager with a fitness certificate from the Colliery Doctor and his registered letter could not be answered as the person who had actually received the same could not possibly be detected, the signature of the recipient being illegible. He having failed to report for duty and remained absent without prior permission of the management, lost his lien on the post as per rule 20(16) of the Standing Orders for the North Chirimiri Colliery. In his case too, therefore, there arises no question of any charge-sheet and/or enquiry inasmuch as the management never discharged or dismissed him.

5. Leaving aside the case on behalf of the workmen, and taking the case of the management at its best, this is obviously a case of wrongful termination of the services of both the concerned workmen Shri Mangal Prasad and Shri Prem Singh. According to the management both having remained absent without previous permission, lost lien on their respective posts. The Standing Order relied on by the management in this connection is meant for an entirely different purpose and it is applicable if there is over-staying of the leave previously sanctioned. So far as the absence from duty without previous permission of the management is concerned, there is a different provision under the Standing Orders according to which the habitual absence or consecutive absence for a certain number of days amounts to misconduct. If the management therefore desired to take any action for the alleged absence, it has in the first place to be shown that the absence in question amounted to misconduct and if so whether the proper procedure of a charge-sheet and an enquiry as contemplated under the Standing Orders was followed in order to terminate the services of the concerned workmen. In the case before us, the management has failed to take out any case of misconduct for the alleged absence and even otherwise the management has admittedly issued no charge-sheet nor has made any enquiry. It has merely proceeded on a wrong assumption that the two workmen for the alleged absence lost lien on their respective posts.

6. In the circumstances of the case, the action of the management cannot be upheld and the workmen Shri Mangal Prasad and Shri Prem Singh are directed to be reinstated on their original posts with full backwages and other amenities which they are entitled to.

Dated, 10th February, 1958.

P. D. VYAS,  
Judge, Labour Court.  
[No. LR-II-55-2(19)/57.]

S.O. 220.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Orissa, in the Industrial dispute between the Orissa Minerals Development Co. Ltd., and Workmen of the Orissa Minerals Development Co., Ltd.

BEFORE THE SOLE-MEMBER, INDUSTRIAL TRIBUNAL, ORISSA

PRESENT

Shri L. Panda, B.A., B.L.,—Sole-Member.

INDUSTRIAL DISPUTE NO. 4/56 (CENTRAL)

BETWEEN

The Orissa Minerals Development Co., Ltd.,

AND

Workmen of the Orissa Minerals Development Co. Ltd.

APPEARANCES:

Shri S. K. Acharya, Counsel, Shri A. N. Ray, Counsel, Shri R. C. Ram, Advocate and Shri S. Mukherjee—for the Workmen.

Shri B. N. Das & Shri S. Mohanty, Advocates & Sri M. S. Bala and Shri J. Jagati—for the O.M.D. Co.

## AWARD

The following two points have been referred for arbitration to this Tribunal by the Government of India.

1. Whether there was a strike on 20th April 1956, and if so, whether it was illegal?
2. Whether the lockout declared by the Co., on 20th April 1956 was illegal and if so, to what relief the workmen are entitled?

(1) The O.M.D. Co., Ltd., is a mining concern in the District of Keonjhar in Orissa operating the mines of iron ore and manganese at and around the area of Barbil in the District of Keonjhar. The mining area, according to the admission of both parties, covers an area of about 45 square miles and the various places of work are Nalda, Barbil, Belkundi, Thakurani, Raida and other places each place being situated at some distance from the other and according to the evidence of the Management witness No. 16, by April 1956, approximately 4,200 labourers were working in these mines, 50 per cent being contractor's Labour. On 20th April, 1956, the P.W. 16 Mr. Loiseau who was the then agent declared a lock-out at about 1 p.m. closing the work in the entire mines area as per the lock-out notice Ext. 21 stating therein that in consequence of the illegal strike declared on that day by the workers in direct contravention of the agreement between the parties, the Company was compelled to declare a lock-out. The case of the workmen being that there was no strike by the workmen on that day and it was the Company which had declared an illegal lock-out and the case of the Management being that they were compelled to declare the lock-out as a result of a preceding illegal strike by the workmen, the terms of reference to this Tribunal require the determination of the question whether there was a strike by the workmen on 20th morning of April 1956 and preceding the admitted lock-out by the Company as per Ext. 21. The lock-out being admitted, it has also to be determined whether it was illegal and if it is found illegal then the question as to what relief the workmen will be entitled.

(2) The O.M.D. Co., hereinafter referred to as the Management and the workmen represented by the Keonjhar Forest & Mine Workers Union hereinafter referred to as the K.M.F.W. Union filed their respective statements regarding the above terms of reference. Another Union styled as the Barbil Workers Union also entered appearance and filed statement alleging that it represents certain workers who have since seceded from the K.M.F.W. Union and alleging that they are also workmen concerned in the dispute. The representative capacity of this Barbil Workers Union was denied by the other Union and the matter was heard as a preliminary issue on 22nd March, 1957 and as per order No. 13, this Tribunal ordered that it was *prima facie* proved that some workmen involved in this dispute are at present members of the Barbil Workers Union and there being no evidence to the contrary, the Barbil Workers Union was held competent to represent some of the workmen and were permitted to appear in these proceedings.

(3) In their statement as well as additional statement, the O.M.D.C. stated that since about the year 1954 the K.M.F.W. Union was spreading indiscipline and inciting workers to violence and had created various troubles in the years 1955-56 including calling of illegal strikes without notice. It was further stated that on various occasions, the workmen had surrounded the officers of the Company and had kept them on restraint at times calling for interference by the Magistracy and Police. It was alleged further that the workmen had unreasonably stopped work many a times and since 5th April 1956, there had been a marked deterioration in the conditions of the whole area and the officers of the Company, had become apprehensive of their safety. In a letter dated 10th April 1956, the Union conveyed to the Co., that they would take direct action and from that date onwards till the 19th, there were acts of indiscipline, insubordination, inciting of workers and movement of loud-speakers asking the workers to refrain from work on 20th April and to have a mass march to the Nalda Office of the Co. On the 20th morning, only a small number of labour turned up but refrained to do work and left the mines resulting in Railway wagons being drawn out empty and the agent by his usual rounds found that no worker turned uptill about 12 O'clock and there was a complete strike of work and the situation was explosive and, therefore, he had no other alternative but to declare a lock-out. It was stated that this strike was illegal and in violation of the agreement reached between the Co., and the Union in December 1955 and a lock-out declared in consequence of an illegal strike is



not illegal and the lock-out was lifted on 25th June 1956 but the strike was never called off. In these circumstances the Co., prayed that the workmen are not entitled to any relief.

(4) The K.M.F.W. Union in their statements pleaded that the Co., was all along hostile to the Union and never cared for the medical and other facilities of the workers and never welcomed the idea of a Union of workers and in spite of the agreement reached between the parties in December 1955, the Co., was trying to call for fresh tenders of contract labour by which 21 hundred workmen would have been thrown out of employment and further they never implemented the conditions of the agreement of December 1955. Therefore, on 13th April the Union decided to take a mass deputation to the Co., but on 19th April, the District Magistrate of Keonjhar informed the Union through the S.D.O. to wait till the arrival of the Conciliation Officer and the Union readily agreed to this proposal and decided to take no further action in the matter and though the Co. was aware of all these movements, on the next date i.e., on 20th April 1956, they declared a lock-out at about 1-30 p.m. when workers were already working having reported for work at usual hours. It was further stated that actually the lock-out was declared in the morning but the formal notice was given at 1-30 p.m. It was stated that in spite of repeated requests and representations, the lock-out continued till 24th June 1956, and was lifted from 25th. It was stated that there was no strike at all on the 20th but on the contrary there was an illegal lock-out declared by the Co., and therefore, the workmen should be entitled to full payment during the period of lock-out.

(5) The Barbil workers Union filed a statement mainly stating that the K. M. F. W. Union was resorting to methods of violence which caused hardship to the workmen who therefore, formed another Union and the members of this Union were always willing to work during the period of lock out and they did not join the strike which was called by the other Union, but they were forced to be absent from work on the 20th due to threats of violence. Finally they wanted protection from the Court from any harm to them by the Co. or by the other Union.

(6) Having regard to the above pleading as well as the terms of reference to the Tribunal, the first question to be decided is whether there was a strike by the workmen on 20th April, 1956, preceding the admitted lockout declared by the Co. at about 1-30 p.m. of that day. The lockout being admitted, the fact whether it was a *suo moto* of the Co. or one resorted to as a result of a strike by the workers will depend on the decision of the above question. Both the Management as well as the two Unions have adduced oral and documentary evidence in support of their respective contentions to relevant portions of which I will be referring during the course of the Award. At this place, it may be stated that 16 witnesses were examined by the Management out of whom Mr. Luoseau witness No. 16 is the main witness and the other witnesses who speak about the strike are witnesses Nos. 7, 8, 9, 10, 11, 13, 14 and 15. The witness Nos. 7, 8 and 11 speak about the fact of cessation of work at the Thakurani siding and witness No. 14 speaks of Rolda and witness No. 9 about Barbil. Witness No. 13 speaks about the Rice Godown and witness No. 8 speaks about the Weigh Bridge and witness No. 10 about the Laboratory. Witnesses 12 and 15 speak about Nalda. Besides these witnesses, the then Inspector of Police at Barbil, T. P. Das is witness No. 2 for the Management and he deposes about the happenings on 20th at Barbil and other mining areas. The witness No. 3 was the then Conciliation Officer (Central) who had visited Barbil on the evening of 20th April, 1956, and after enquiry about the situation had sent two reports one confidential and the other ordinary under Ext. 1 and 1-a to his superior officers. Witness No. 4 is a Group Officer of the Coal Fields recruiting Organization and deposes about the Thakurani mines area as he saw it on 20th April, 1956. Witness No. 5 is the S.P. of Keonjhar who had also visited Barbil on 20th April, 1956 and deposes about his knowledge of the situation. Besides the above oral evidence, the Co., relies upon various Exhibits to the contents of which I will refer presently and those relevant to the question of cessation of work are the Exts. 1 and 1-a i.e. the reports of the Conciliation Officer, Exts. 3 and 3-a letters by the Co. to the S.P., Ext. 4 and 4-a i.e., statements of non-utilisation of wagons by the Company on the material dates, Ext. 5 statement by the Weigh Bridge Clerk Thakurani and Exts. 6 and 6-a which are reports of the Dressing Shed Clerk and his assistant on 20th April, 1956. The Ext. 7 series as well as Exts. 8, 9, 11, 12 and 14 are the Attendance Registers proved to show the short presence or total absence of the workmen on that day at the various mining areas and Ext. 13 is the report of witness Bhattacharya about the cessation of work. Besides these Exhibits, some ancillary documents have also been proved by the Company, including Ext. 16 which is the December,

1955 agreement about the breach of which each side accuses the other, the Ext. 17 where by K. M. F. W. Union had intimated the Company, that they would take direct action and Ext. 25 which is a letter by the agent M.W. 16 to the Regional Labour Commissioner and Ext. 23 is another report by him to the S.P. Exts. 21 and 27 are respectively the lock out notice and the notice lifting the lock out and along with it is the Ext. 26 which is a letter by the Union to the agent. On the side of the K. M. F. W. Union, the witnesses who speak that there was no strike on 20th are D.Ws. 15 and 16 who depose about Thakurani, D.Ws. 11, 6 and 12 who speak about Roida, D.W. 5 who speaks about Barbil, D.W. 8 who speaks about Rice Godown and laboratory and also witness Nos. 9, 10 and 1 who speak about other mines and witness No. 16 who speak about contract labour. The Joint Secretary of the Union is Witness No. 14. Besides this, the Union relies upon various documents including Ext. A-1 which is a notice dated 24th June, 1956 by which the Company withdrew recognition of this Union Ext. C-1, D-1 and E-1 relating to Gorakpuri labour and about the timings of their work, Ext. F-1 and G-1 relating to bonus Ext. H-1 and J-1, K-1, L-1, M-1 which are letters from the Union to the Company complaining about non-receipt of benefits. Ext. S-1 is the Resolution dated 13th April, 1956 and Ext. S-2 is alleged to be the Resolution of 19th April calling off the mass deputation and Ext. W-1 is a letter dated 18th March, 1956, by the Union to the Company, complaining about breach of the December 1955 agreement. Ext. X-1, Y-1 and Z-1 are letters alleged to have been sent by the Union to the Company, on 20th April, 1956 which are stoutly denied by the Company. The Barbil Workers Union also examined three witnesses about whose evidence I shall refer later on, if necessary.

(7) The question whether in fact there was a strike or not on 20th April, 1956 by the workmen has to be decided with reference to the above evidence oral and documentary. It is contended by the learned Counsel for the K. M. F. W. Union that there was no strike at all and the evidence adduced by the Company on the point is shaky and insufficient to hold that there was such a strike and he argues that the evidence of the Inspector, the agent, as well as others who speak that there was complete cessation of work should be disbelieved. On the other hand, it is argued for the Management that from the evidence of the S.D.O. of Champua who was examined as a witness by the K. M. F. W. Union (witness No. 17) as well as statements made by the witnesses of the Union themselves as well as from the evidence of the S.P., the reports of the Conciliation Officer as well as other oral and documentary evidence, it is clear and there is overwhelming evidence to hold that there was a complete strike on the morning of 20th April, 1956 and it was in pursuance of pre-meditated plan by the Union. I have given my most anxious consideration to the evidence on either side as well as the arguments adduced and for the following reasons, there could be no doubt to hold that there was stoppage of work by the workmen on the morning of 20th April 1956. In the first place, there is direct evidence on the point by the Officers of the Company, and their witnesses which is supported by statements made by the S.P. the S.D.O., Champua who was examined by the K. M. F. W. Union as well as certain admissions made by the witnesses examined by the Union itself. The Management witness No. 16 who was the then agent of the Company, has stated that prior to 20th April, propaganda was carried on by the Union asking the workers to stop work on the 20th and to go to Nalda and he says that he had personally heard the propaganda while going round on his duties. No doubt, Shri Sadhan Mukherji, the Joint Secretary of the Union denies that the Union had asked the workers to stop work on the 20th and to march to Nalda for the mass rally or deputation but no value can be given to this denial in view of the admissions made by the Union's witnesses Nos. 3 and 13. Witness No. 3, S. B. Chatterjee has stated in his cross-examination that there was a meeting of Executive Committee who had told the workers not to go to work on 20th morning. He also admits that about 700 workers had assembled at Belkundi only to give their attendance but they were not working. The other witness Murgi (U.W. No. 13) admits in his cross-examination that there was propaganda by the Union that labourers had to go to Nalda from the Union Office on 20th Morning and the above propaganda was made by the Union and this was 4 or 5 days before 20th. He is also a member of the Executive Committee of the Union and states that on 20th, he did not see the labourers at Belkundi except 3 or 4 persons. These statements fully support the evidence of the Agent that there was propaganda by the Union asking the workers to stop work on 20th morning. The Agent's further evidence is that on 20th morning, he went to his Office as usual and received telephone messages from various places of work about the stoppage of work and at about 7-30 A.M. he started on his round, went to Thakurani, Barbil and other areas and found hundreds of labourers gathered at the Union

Office and none at the places of work. He states that he received reports about stoppage of work and saw it personally and it is only after that, he decided to have the lock out. Besides this Agent, the Management witness No. 4 Sriram Singh who is a Group Officer of the Coal Fields Recruiting Organization supplying trained labour states that he went to Thakurani as usual on the morning of 20th April 1956 and found that no labourer was working there. The witness No. 9 is the In-charge of the Company, in the dressing shed of Barbil and his evidence is that the labourers simply marked their attendance on the 20th morning and left without doing work about which he phoned to the Head Office and gave a report as per Ext. 6 at about 11 A.M. when an Officer of the Company went there. The witness No. 10 is the Chemist at Barbil and his evidence is also to the same effect and he gave a report as per Ext. 8. The witness No. 11 is the Time Keeper at Thakurani and his evidence is that on 20th Morning, only 4 or 5 workers came who also did not work. The witness No. 12 is a Surveyor working at Nalda and his evidence is that on 20th, his Gang did not turn up for work and no attendance was taken as is shown by the Attendance Register Ext. 11. Witness No. 13 is the In-charge of the Company at the Rice Godown of Barbil and his evidence is that the labourers after giving attendance walked away without doing work and the Ext. 13 is the report given by him and he states that though he waited till 1-30 P.M., no labourers turned up. The witness No. 14 is the Supervisor of works Barbil and his evidence is that on 20th the workers did not turn up and, therefore, the Attendance Register was not marked but was left blank as per Ext. 14. Thus, the evidence of these witnesses of the Company, does corroborate the evidence of the Agent which I have already stated receives support from admissions by the Union's witnesses as well. The learned Counsel for the Union argued that these persons i.e., the Agent and the other witnesses are all interested in the Company, and as such their evidence should be taken with caution. If that would have been the only evidence, this argument might have deserved consideration, but as I will show presently, the evidence of these witnesses is supported by other disinterested witnesses as well as certain admissions made by the witnesses for the Union. The Management witnesses Nos. 6 and 7 are Railway employees and so also witness No. 8. Witness No. 8 was working by the relevant date as the Weigh-Bridge clerk at Thakurani and states that after 6 A.M. of 20th April no wagons of the Company, were loaded and he did not find people in the quarry and found that 18 wagons remained empty and on the request of the Company, he has given a statement as per Ext. 5 showing that certain wagons had to be returned empty. The witness No. 7 also prepared a statement as per Ext. 4 to show that certain Wagons were returned empty. The witness No. 6 was the Station Master at Badajamuda and he signed the Ext. 4 statement regarding non-utilisation of wagons. His evidence is that on 20th, he got information from his staff that the workmen of the Company were on strike and then he wrote Ext. 4-a endorsement though he had no personal knowledge about it. The evidence of these railway witnesses shows that certain wagons which were to be loaded were returned empty on 20th and this supports the Company's case that there was stoppage of work. Then there is the evidence of the P.W. 2 who was the Inspector of Police at Barbil by 20th April and he states that he got information that the labourers would proceed in a body to Nalda when he sent reports to his superiors and promulgated an order under Sec. 30 of the Police Act in all the labour areas. He states that he received a phone message from the D.M. to try for an amicable settlement, contacted the Union leaders and the Agent and it was settled that there would be a talk between both the parties on 19th at 6-30 P.M. He states that at the appointed hour, the Union leaders did not turn up saying that they would meet the Agent on the next morning. He states that on 20th morning, he found the labourers going towards the Union Office and while proceeding to Nalda, he found labourers coming in batches and did not find any labourers working in the mine areas including Thakurani and Belkundi. His evidence is that there was complete strike in all the mines and he reported the fact to the S.P., witness No. 5 who by that time had arrived there. This witness was cross-examined at length but his evidence was not shaken in any way. The only point elicited against him is that his son is at present the Secretary of the rival Union was in service of the Company, but he is no longer in service now. If this Inspector would have been the only witness to speak about the strike perhaps there would have been some force in the argument that his son was an Ex-employee of the Company, and at present the Secretary of the rival Union but as I have already shown above and will show presently, there are other independent evidence to believe that there was stoppage of work and I do not think that the evidence of a Police Officer of the rank of Inspector should be disbelieved only on that ground. The S.P. of Keonjhar was examined as Management Witness No. 5 and his evidence is that he reached Barbil on 20th April, 1956 by 10 A.M. and had found a number of persons looking like labourers going towards Barbil and

he learnt from the D.S.P. and others that hundreds of labourers had gathered at the Union Office and there was no work in the mines. The Inspector of Police also states that he had reported this fact to the S.P. who did not go to see the situation himself but he makes a statement which as I will later on show is corroborated by the evidence of the S.D.O. examined by the Union that since the time he came, he negotiated for a settlement with the leaders of the Union including Sri Bose and by about 12 noon of that day i.e. 20th, the Union leaders agreed not to take out a procession and further promised that they would direct their workers to return to work from the afternoon shift and that they would await patiently till the arrival of the Conciliation Officer. This statement of the S.P. cannot be disbelieved on any ground as he is a very high ranking Officer not interested in either party. So it is a stern fact that by 12 noon of that day, the Union leaders promised the S.P. to direct the labourers to return to work from that afternoon. This clearly implies that the labourers were not working in the forenoon as otherwise there would have no necessity or need for the Union leaders to direct the workers to return to work. The Secretary of the Union witness No. 14 has stated that what the S.P. states is not true and according to him on the evening of the 19th, the S.D.M. of Champua arrived at Barbil and persuaded them (Union Leaders) to defer the proposed mass rally on 20th and so on the 19th night itself, the Union Executive passed a Resolution deferring the mass rally as per Ext.S-2 resolution and went round in propaganda vans with Loud Speakers proclaiming their decision in such of the areas to which they could go that night. This story given out by the Secretary is also spoken to by the witnesses examined for the Union but it receives a death blow when we consider the evidence of the S.D.M. Champua who was examined by the Union. The S.D.M. was examined as witness No. 17 for the Union and states that he knows Sri Mukherji and Sri Bose, the Union leaders and on 19th evening he met some of them and by that time, he had received information that on the next day there would be some trouble. He states that he does not remember of the labour leaders giving him any assurance of not taking out a procession on the next morning. He is definite that the negotiations with the labour leaders to stop the proposed procession were going till the S.P. came and on 20th morning, he and the S.P. made joint efforts to negotiate to see that there would be no demonstration and it is only between 10 A.M. and 11 A.M. of 20th that the Labour Union people gave him an assurance that they would not take out a procession. He further states that till about 10 A.M. negotiations on the point with the Union people was still going on. He states that subordinate Police Officers like the Inspector were present at that time and he and the S.P. negotiated from 7 A.M. to 11 A.M. and then the Union agreed to his persuasion not to take out the procession. The evidence of the S.P. as I have stated earlier is also to the same effect. This statement of the S.D.M. belies completely the evidence of the Union Secretary and the witnesses that on 19th night itself, the members of the Union gave an assurance not to take out the procession and this being so, the further evidence of the Union that on the 19th night, they made, a propaganda proclaiming the deferring of the procession does not seem to be true. In addition to the above as I have already stated, the witness No. 3 for the Union states that the Executive Committee had told the workers not to go to work on 20th and so it was necessary for them to make another propaganda on 19th. The witness No. 6 stated that on the 19th the proposal of workers go to Nalda on 20th morning was dropped. The witness No. 5 Mansing stated that it was resolved that the workers should join work which suggests that previously they were asked not to work. I have already referred to the evidence of the witness No. 13 Murgli. The witness S. B. Chatterjee states that the Executive Committee had resolved that the mass rally would start at 7 A.M. from the Union Office and then march to Nalda. In view of this the evidence of the Union that only workers of the 2nd and 3rd shifts were asked to join the mass rally does not seem probable. No doubt an entry in the proceeding book was exhibited by the Union to show that there was such a resolution on 19th night but in view of the evidence of the S.D.O. above referred to, this cannot be believed and moreover, by an examination of this proceeding book, it can have very little evidentiary value because significantly, the book starts from 13th April and proceedings before it are not there. Witness No. 12 R. G. Padia was alleged to have moved Resolution as per this proceeding book but the witness denied on oath having done any such thing. Similarly, witness No. 10 denied to have signed his name in this book on 19th December, 1956. Many pages are left blank in the book. Due to these reasons as well, it cannot be believed that there was a Resolution on the night of 19th April. Some oral evidence was adduced by the Union that the proposed mass rally was to start at about 12 o'clock and would have consisted of workers who would have no duty by that time. I have already stated that there is evidence to hold that this rally was to start in the morning as admitted by some Union witness as well. The alleged Resolution d/13th April under Ext. S

does not mention the time of this rally nor does it state that only workers without duty should join it. The witness No. 6 Bir Singh had stated that on the 19th night, the propaganda was to the effect that the proposal to go to Nalda on 20th morning was dropped. This also indicates that the original proposal was to have the rally in the morning. The witness No. 3 Sri S. B. Chatterjee, also stated that he and the other leaders of the Union informed the workers to go to their work on the 20th morning as usual and he states that the Resolution was that the mass rally would start at 7 A.M. from the Union Office Barbil and then march to Nalda. Similarly witness No. 13 Murgli has stated that he had heard the Union propaganda that on 20th morning, labourers had to go to Nalda. This clearly shows that the proposal to take the procession was in the morning and coupled with the admission of some of the Union; witness to the effect that the workers had been asked to stop work that morning and taken with the positive evidence of the C.I. the agent, the Railway officers and the other officers of the Co., together with the falsity of the Union's case that they changed the Resolution on 19th night as is seen from the evidence of the S.D.M., the conclusion is irresistible that on the 20th morning, the workmen did not turn up for work except a few at some places who according to evidence simply marked their evidence but abstained from doing their work.

(8). It was argued by the learned Counsel that the evidence adduced by the Co., falls short to hold that there was a strike because that word is not used by any of the witnesses and according to the evidence, some workers did come to work at some places as is stated by the Weigh Bridge clerk. The evidence of the Inspector as well as the Agent is to the effect that there was a complete strike over the entire mine area. Moreover, a strike as defined in the I.D. Act means a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal under common understanding of any number of persons who are so employed to continue to work or to accept employment. It has been held by various decisions that the actual number of workers is of no consequence under the definition of term "strike". It has also been held by the Tribunals that the duration of the strike does not matter and its short duration does not exclude it from the definition L.L.J. 1953, VOL. 1, page 213; L.L.J. 1957, Vol. 1, page 22. L.A.C. 1957, (April), page 232. L.L.J. 1955 Vol. II, page 59, and L.A.C. 1956 page—261.

(9). In light of the above evidence, it is clear that in accordance with the Union's decision to have a mass rally and mass deputation on the morning of 20th, the workers as a body either did not attend to their work or merely gave their attendance and walked off to the Union Office and this concerted action did amount to a strike in terms of the Industrial Disputes Act. In addition to the above evidence, the Co., have also filed the reply to a question on the floor of the Indian Parliament on 25th July 1956 by the Deputy Labour Minister who has stated that this lockout was declared at 1 P.M. on 20th April 1956 after the Union had gone on strike. So also under Exts. 1 and 1-a the Conciliation Officer (Management witness No. 3) had reported that there was a strike on 20th but both these statements were from persons who had no direct knowledge of the same and as such it is only hearsay. It was argued that the Evidence Act strictly does not apply to the proceedings under I.D. Act and even such hearsay evidence is admissible. It is difficult to swallow such a proposition but even if it so, these statements have little evidentiary value and, therefore, they may not be taken into account.

(10). Having come to the conclusion that there was a strike by the workmen on the morning of 20th, the next question for consideration is whether this strike was illegal and then to further consider whether the lockout admittedly declared by the Co., was also legal or not.

(11). Before deciding this question, it has to be determined whether the lockout was an arbitrary one or whether the Co. was forced to declare it, as stated by the Agent. I have already come to the finding that there was a complete cessation of work on the morning of 20th April and this was in pursuance of the intimation given by the Union on 13th April that unless their demands were met, they would consider to take recourse to "direct action". The happenings before and after December 1955 have been enumerated by the Management witness No. 16 in his evidence. His evidence as well as the Ext. K-1, L-1, M-1 and Ext. 16 and 16-a show that there were undesirable incidents in the past when Officers of the Co. had been surrounded by workers and there used to be strikes without notice. Even the Union's witness No. 3 S.B. Chatterjee admits that he had heard

about the Agent of the Co., having been surrounded by workers. Admittedly, in December 1955 and as per Ext. 16 agreement there was an agreement between the Management and the workmen who had made 24 demands and their differences by then were settled. By term—1 of the agreement, it was agreed in all dealings between the Union and the Management constitutional methods would be employed by prior negotiations and in the event of difference of opinion, Government machinery for conciliation will be approached for mediation by both the parties before taking any direct action. Thereafter, other differences were settled but in this agreement nothing is stated specifically about contract labour. According to the evidence of the Agent even after this agreement in March 1956, there was surrounding of Officers and strikes in April. No doubt as admitted by the Agent the wages in lieu of the leave under the Mines Act were not by then calculated and given to the workers. The Secretary of the Union Sri Mukherjee states that other demands on the Co., were also not by then fulfilled and that the Co., wanted to replace the then existing contract labour by calling for fresh tenders. It is argued by the other side that contract labour does not come under the definition of workmen as held in various decisions and, therefore, the Union was not justified to go on a strike due to any conditions effecting contract labour. It is argued by the other side that the Co., gives amenities to contract labour also and, therefore, they are workmen. Whatever that might be, by the agreement under Ext. 16 it has been agreed that all differences between the parties would be settled by Government machinery but not by direct action such as strike. None-the-less there was a strike on the 20th morning and as I have already stated from the evidence of the S.P., the Inspector and the Agent, it seems the situation was explosive. The Agent apprehended danger to lives and property of the Co., and its officers and he says that under the circumstances, he had no other go but to declare the lock out. The seriousness of the position could be seen from the deposition of the S.P. who states that after declaring the locks cut, the Company's Officer requested him to give protection for their colonies and for the properties of the Company. The S.P. also has further stated that if the Union would have taken out a procession, there would have been other troubles and he apprehended breach of peace to follow the procession. From the evidence it is clear that evensince Ext. 17 was received by the Agent, Loud Speaker Vans were going round the area and there were instances of disobedience of orders and the Agent stated that there was propaganda even inciting violence.

(12). The question is whether the strike was legal and also whether the lock out declared after the strike was legal? According to Sec. 24 of the Industrial Disputes Act a strike or lock out shall be illegal if it is commenced or declared in contravention of Sec. 22 or Sec. 23 of the Act or if it is continued in contravention of an order made under Sec. 10, Sec. 22 concerns with the public utility services and Sec. 23 for other industrial establishments and it provides that no workman shall go on strike and no employer shall declare a lock out during the pendency of conciliation proceedings before a Board; during the pendency of proceedings before a Tribunal and two months after the conclusion thereof or during any period in which a settlement or award is in operation in respect of any of the matter covered by the settlement or award. In the present case in the December 1955 agreement, it was clearly settled between the parties that they would not resort to direct action such as strikes or lock outs but in all matters of difference they should try to have mediation by Government Machineries set up for the purpose of settling such disputes. According to the Union Secretary, Ext. 17 notice by the Union to resort to direct action was given because the Co., failed to supplement this agreement and though the singular word "demand" is mentioned in this notice the Secretary states that it means other demands as well. Though he states that the author of the letter Shri N. K. Bose would explain what all demands were referred to it Ext. 17, he was not examined and from the correspondence between the parties it is seen that there was demand for supplementing the provisions regarding payment of wages in lieu of leave under the Mines Act. When there was such an agreement in December 1955, a strike by the workmen was illegal as contemplated by Sec. 24. It has also been held in various cases that where a lock out has been declared by way of security measure against illegal acts of workers such a lock out is justified and the workers are not entitled to wages during the period of lock out. (1953-II-L.L.J page 684 before the Labour Appellate Tribunal of India at Calcutta). It was observed in this case that when a reasonable apprehension in the mind of the management exists that untoward instance endangering the lives and property may happen at any moment, a lock out declared by them is justified. In the present case from the evidence of the Agent, M.W. 16 as well as from the documentary evidence I have already discussed above, it is clear that prior to 20th April 1956 there were instance of violence towards the Officers of the Management and on 20th morning there was a strike of all workers and it was well known that a mass

procession or deputation of workers would march to the Nalda Office of the Company. The agent swears that he had heard propaganda to the effect "Nalda Chalo" "Loluseau Sahebku hallakaro". Having regard to these circumstances as prevailing on 20th morning as well as the past relationship between the parties, there can be no doubt to hold that a reasonable apprehension existed in the minds of the agent regarding danger to properties of the Company and its officers and, therefore, the lock out declared by him must be held to be justified. It was also argued for the Management that 20th April was within 60 days from the decision of an appeal relating to an award between these parties before the Appellate Tribunal reported in 1956-L.L.J. and, therefore according to Sec. 23B of the Act, the strike should also be regarded as illegal. It is admitted by both sides that the appeal before the Appellate Tribunal which was only one among a batch of Appeals of similar nature by other concerns was withdrawn by agreement between the parties and, therefore, it cannot be regarded as a decision by the Appellate Tribunal so that it can be said that within 60 days therefrom a strike would have been illegal. Similarly it was argued for the Union that the strike was justified because the Company called for fresh tenders of contract labour which would have effected many contract labourers then existing. As a matter of fact, it is admitted by the Management that fresh tenders were called for contract labour and they have produced some tender forms when required but according to the trend of decisions it is held that workmen employed under contractors are not concerned with the Company (1953-II.L.L.J. page 845, 1944-I, L.L.J. page 149). Moreover in the December 1955 agreement there is no mention directly or indirectly about contractors and their labour. But, on the other hand, a demand that all contract labour, should be terminated was settled in the following words "This demand is not acceptable to the Management". This being so the strike cannot be justified on the ground that the Company was trying to terminate existing contract labour.

(13). Due to the above reasons I have to answer the terms of reference as follows:—

1. There was a strike on 20th April 1956 and it was illegal.

And. 2 the lock out declared by the Company on 20th April 1956 was justified for reasons stated in the body of the Award and as such the workmen concerned are not entitled to any relief.

Accordingly I pass an award in the above terms and the same be submitted to the Government of India.

Dictated to the Steno by me.

Sd./ L. PANDA, *Sole-Member.*

20th February 1958.

[No. LR11/57-1(4)/56.]

*New Delhi, the 8th March 1958*

S.O. 221.—In pursuance of section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the following awards of the Central Government Industrial Tribunal, Calcutta in the matter of applications under section 33A of the said Act.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA,

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION No. 60 OF 1957: (U/s. 33-A)

Shri Indra Dass, Junior Supervisor, T. No. 481, and others of Mill Wright Section, No. 8 Workshops, C.P.C., c/o C.P.C. Workers Union, 3, Joy Krishna Paul Road, Calcutta-23—*Complainants.*

*Vs.*

Calcutta Port Commissioners, 15, Strand Road, Calcutta-1—*Opposite Party.*

In the matter of an Application under section 33-A of the Industrial Disputes Act, 1947 filed in connection with Reference No. 1 of 1956.

**PRESENT:**

Shri A. Das Gupta, *Sole Member.*

*Dated the 11th February, 1958.*

**APPEARANCES:**

Shri A. L. Roy of C.P.C. Workers' Union for the Complainants.

Shri K. B. Bose, Counsel, with Shri N. M. Das Gupta, Advocate, for the Port Commissioners.

**AWARD**

The present application under section 33-A of the Industrial Disputes Act, 1947 has been filed by Shri Indra Dass and several other employees of the Mill Wright Section, No. 8 Workshop, under the Port Commissioners complaining that during the pendency of the main adjudication proceedings, the Port Commissioners curtailed, without express permission of the Tribunal, the privileges the employees had been enjoying immediately before the commencement of the adjudication proceedings in respect of summer uniforms. Their case is that for summer season they were getting Full Khaki Pants and Full Khaki Shirts but that recently they have been given Full Khaki Shirts but Half Khaki Pants.

2. The application is opposed by the Port Commissioners. They deny to have curtailed any privilege of the employees and plead that a sanction was obtained to supply two pairs of Khaki Shorts (Half Pants) and two Khaki Shirts for the summer season every year but that through oversight Full Pants scheduled for other outdoor and operational staff were supplied to them in 1954 and 1955.

3. Section 33 of the Industrial Disputes Act, 1947 prohibits, during the pendency of adjudication proceedings in respect of an industrial dispute, alteration of the service conditions of workmen concerned in such disputes to their prejudice, and discharge or punishment by dismissal or otherwise of any workmen concerned in such dispute save with the express permission in writing of the Tribunal and section 33-A provides that in the event of any contravention of the provisions of section 33, the aggrieved employee may make a complaint in writing and the Tribunal is to adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of the Act and shall submit its award to the appropriate Government.

4. Industrial Tribunals can assume jurisdiction over industrial disputes and adjudicate upon such disputes only on a reference under section 10 of the Act by the appropriate Government. This is the general law. Section 33-A lays down a special law specifying the special circumstances under which an industrial tribunal can assume jurisdiction over an industrial dispute without any reference from the appropriate Government. As section 33-A lays down a special law, it must be strictly interpreted. An aggrieved workman can invoke the provision of section 33-A of the Industrial Disputes Act only when the pre-requisite conditions are fulfilled. The pre-requisite conditions are:

- (i) an adjudication proceeding in respect of an industrial dispute is pending before the Tribunal;
- (ii) an employer has altered the service conditions of the workmen concerned in the dispute to their prejudice or has discharged or punished by dismissal or otherwise any workman concerned in the dispute;
- (iii) that such acts of the employer have taken place during pendency of the adjudication proceedings;
- (iv) the employer has not obtained any previous permission in writing of the Tribunal for these acts.

5. The main adjudication proceedings started admittedly on the 31st July, 1956 and the award was published on the 30th January, 1958. The workmen of the Mill Wright Section were not previously getting any uniform. Uniforms for these workmen were sanctioned for the first time on the 25th April, 1953 and effect was given to the sanction from 1954. The sanction was for one cap, two pairs of Khaki Shorts and two Khaki Shirts for the summer every year. But actually the workmen of the Mill Wright Shop were given two pairs of Khaki Full Pants and two Khaki Shirts for the summer season in 1954 and 1955. The Port Commissioners plead that this was by oversight and that the error was detected during the supply of summer uniforms in 1956. Shri Adhir Chandra Das, one of the complainants, has been examined in this case. His evidence is that summer uniforms are given in May or June every year. In fact according to the Annexure to the petition of complaint, the summer uniforms for 1954 and 1955 were given respectively on 4th June, 1954 and 26th April, 1955. According to Adhir Chandra Das Half Pants were offered for summer uniforms for 1956 in June or first half of July, 1956 and the workmen refused the Half Pants on the ground that they had received Full Pants on the two preceding years. Thus the



final decision of the Port Commissioners was taken by the first half of July 1956 when there was not pending any adjudication proceeding in respect of any industrial dispute between the Port Commissioners, Calcutta and their employees. Thus even assuming that the Port Commissioners altered the service conditions of the workmen of the Mill Wright Shop by curtailing their privileges in respect of summer uniforms such alteration took place prior to the commencement of the adjudication proceedings before me. The workmen, however, continued agitations over summer uniforms for 1956. They submitted a representation on the 3rd August, 1956. This was followed by several reminders ending with the letter, dated 26th October, 1956. Ex. E/2 is a recommendation of the Chief Mechanical Engineer. This is dated 18th May 1956. The Chief Mechanical Engineer appears to have recommended Full Pants for the Mill Wright Shop workmen. Exhibit E/2 shows that the staff of the Mill Wright Shop had already refused to accept Half Pants. Obviously, therefore, the summer uniform for 1956 was offered to the employees some time before the 18th May, 1956. The authorities refused to re-consider the matter as is evidenced by the endorsement of the Secretary, dated 26th May, 1956 on the recommendation of the Chief Mechanical Engineer. In any case the final decision was taken by the authorities before the adjudication proceedings started before me. The summer uniforms offered were subsequently accepted by the workmen on 12th February, 1957. Agitations or submission to the employers' decision on a late date under protest or otherwise does not alter the date of the final decision and hence the date of the employers' action in any way. The date of the decision is material and the delayed execution of the decision which follows the decision as a matter of course does not affect the merit of the case. The act of the employers complained of having been done before commencement of the adjudication proceedings before me is not hit by section 33 of the Industrial Disputes Act and cannot therefore be the subject matter of a complaint under section 33-A. The complainants might move the appropriate Government for a reference under section 10 of the Act. But, as matters stand I have no jurisdiction to entertain the complaint. The petition of complaint is rejected. This is my award.

(Sd.) A. DAS GUPTA,

Sole Member,

Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;

The 11th February, 1958.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA,

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION No. 59 OF 1957: (U/s. 33-A)

Shri Laloo Jeswara, Khalasi, Item No. 181, Superintendent, Kantapukur, C.P.C., c/o C.P.C. Workers' Union, 3, Joykrishna Paul Road, Calcutta-23—Complainant.

*Vs.*

Calcutta Port Commissioners, 15, Strand Road, Calcutta-1—Opposite Party.

In the matter of a complaint under section 33-A of the Industrial Disputes Act, 1947 filed in connection with Reference No. 1 of 1956.

PRESENT:

Shri A. Das Gupta, Sole Member.

Dated the 13th February 1958

#### APPEARANCES:

Shri A. L. Roy of C.P.C. Workers' Union for the Complainants.

Shri K. B. Bose, Counsel, with Shri N. M. Das Gupta, Advocate, for the Port Commissioners.

## AWARD

Shri A. L. Roy representing the complainant informs that the complainant will not proceed with the application.

## ORDER

The petition of complaint is dismissed for non-prosecution and my award is that there is no dispute between the parties as alleged in the petition of complaint.

(Sd.) A. DAS GUPTA,

Sole Member,

Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;

The 13th February, 1958.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA,

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION No. 50 OF 1957: (U/s. 33-A)

Satya Chatterjee, Leading Hand and 8 others of K.G.D. and K.P.D. Electric Section, c/o C.P.C. Workers' Union, 3, Joy Krishna Paul Road, Calcutta-23—*Complainants*.

## Vs.

Calcutta Port Commissioners, 15, Strand Road, Calcutta-1—*Opposite Party*.

In the matter of a complaint under section 33-A of the Industrial Disputes Act, 1947 filed in connection with Reference No. 1 of 1956.

## PRESENT:

Shri A. Das Gupta, Sole Member.

Dated the 18th February, 1958.

## APPEARANCES:

Shri A. L. Roy of C.P.C. Workers' Union *for the Complainants*.

Shri K. B. Bose, Counsel, with Shri N. M. Das Gupta, Advocate, *for the Port Commissioners*.

## AWARD

The present application under section 33-A of the Industrial Disputes Act has been filed by Shri Satya Chatterjee and eight others alleging that their service condition have been altered during the pendency of the main adjudication proceedings to their prejudice without express permission of the Tribunal as required by section 33. The petitioners allege that although they have been allotted duty on three shifts,

(1) 6 A.M. to 2 P.M.,

(2) 2 P.M. to 10 P.M.,

(3) 10 P.M. to 6 A.M.,

they have to attend duties at least half an hour earlier to relieve the workmen on duty in the previous shift and are detained for half an hour till arrival of their relievers. The petitioners are thus required to put on duty for one hour more without any overtime payment.

2. The Port Commissioners deny to have altered the service conditions of the petitioners.

3. Safiquddin, one of the petitioners, has been examined before me. Safiquddin is a Leading Hand at K.P.D. Electric Section. The works in the Electric Section are carried on in four shifts one of which is called general shift. This is from 7-30 A.M. to 4-30 P.M. The other three shifts are from 6 A.M. to 2 P.M., 2 P.M. to 10 P.M. and 10 P.M. to 6 A.M. Workers of the three shifts and the general shift are transferable whenever necessary. Previously there were three shifts including the general shift. In 1955 one shift was added. Even then the workers were transferable between the general shift and the other two

shifts. Saifuddin tells us that in the three shifts no recess is allowed to the workers as in the general shift and Sunday is not observed as a weekly off. I could understand during the arguments that the weekly off days are staggered. All the workers may not rest on Sundays. Those who are required to work on Sundays get an alternative day of rest. The petitioners' case is that with the addition of the third shift in 1955 early attendance and late departure is insisted. Thus it is clear that the alteration of the service conditions as complained of took place with the introduction of the third shift in 1955 and not during the pendency of the main adjudication proceedings.

4. Section 33 of the Industrial Disputes Act, 1947 prohibits, during the pendency of adjudication proceedings before an industrial tribunal in respect of any industrial dispute, except with the express permission of the Tribunal:

- (a) alteration of the service conditions applicable to workmen concerned in such dispute immediately before commencement of the adjudication proceedings to their prejudice, and
- (b) discharge or punishment whether by dismissal or otherwise of any workman concerned in the industrial dispute.

5. In the event of contravention of these provisions, the aggrieved workman may move the Tribunal before whom the adjudication proceedings are pending and the Tribunal is to adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of the Act.

6. Industrial Tribunals can assume jurisdiction over an industrial dispute only when it is referred to it by the appropriate Government under section 10 of the Act. Section 10 of the Industrial Disputes Act, 1947 lays down the general law. Industrial Tribunals have no jurisdiction to entertain any industrial dispute unless it comes for adjudication through the appropriate Government as provided in Section 10 of the Act. Section 33-A lays down a special law authorising Industrial Tribunal to entertain industrial disputes, under special circumstances, directly from the employees without the intervention of the appropriate Government and to adjudicate upon it. Industrial Tribunals can assume jurisdiction over an industrial dispute, under section 33-A, provided the act of the employer complained of amounted to alteration of the service condition of the workmen or their discharge or punishment and provided such act was done during the pendency of adjudication proceedings before an Industrial Tribunal in respect of an industrial dispute between the employers and the workmen and provided further that no express permission of the Tribunal was obtained for the act. Section 33-A may be invoked only when these special conditions are fulfilled. Section 33-A purports to lay down a special law and it must be strictly interpreted. Hence we are to enquire as to whether there has been any contravention of section 33 of the Industrial Disputes Act during the pendency of the main adjudication proceedings.

7. The case as made out in the petition of complaint and the evidence does not come under section 33 inasmuch as the conditions of service of the petitioners which existed to-day were existing before commencement of the main adjudication proceedings. The main dispute was referred to me by an order, dated 30th July, 1956. The conditions complained of exist since 1955. Hence I must hold that there was no alteration of the service conditions of the petitioners applicable to them immediately before the commencement of the main adjudication proceedings and hence there was no contravention of section 33. In this view of the case I have no jurisdiction to entertain the complaint. The petitioners may have a genuine grievance in respect of the service conditions as they allege in the petition of complaint but such grievance cannot be looked into under section 33-A of the Industrial Disputes Act. In the result the petition of complaint must stand rejected.

8. Shri A. L. Roy urged that Saifuddin was transferred from the general shift in August, 1956 and had been deprived of the amenities he had been enjoying in the general shift prior to his transfer. Such a case was not pleaded in the petition of complaint. Nothing has been said whether the other petitioners were so transferred and if so when they were transferred. I am not called upon to decide the case which was not pleaded in the petition of complaint. However, I may note, in passing, that transfer from the regular shift to the other shifts is an old practice and is as old as creation of the shifts and when a worker is transferred from one shift to another, he is governed by the working conditions of the particular shift. This has been the practice in the Port from before the commencement of the main adjudication proceedings. The transfer of the petitioners from the general shift and the service conditions of the particular

shifts to which they have been transferred being made applicable to them are according to the terms and conditions of employment existing in the Calcutta Port from before the commencement of the main adjudication proceedings. I have no jurisdiction under section 33-A to scrutinise these terms and conditions of employment and to redress the grievance of the petitioners even if such grievance is genuine.

(Sd.) A. DAS GUPTA,

Sole Member,  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;

The 18th February, 1958.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA,

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION No. 57 of 1957: (U/s. 33-A)

Mohit Mohan Dey, Grinder Gr. I, Machine Shop, No. 8 Workshop, C/o  
C.P.C. Workers' Union, 3, Joykrishna Paul Road, Calcutta-23—  
Complainant.

Vs.

Calcutta Port Commissioners, 15, Strand Road, Calcutta-1—Opposite Party.

In the matter of a complaint under section 33-A of the Industrial Disputes Act, 1947 filed in connection with Reference No. 1 of 1956.

#### PRESENT:

Shri A. Das Gupta, Sole Member.

Dated the 18th February, 1958.

#### APPEARANCES:

Shri A. L. Roy of C.P.C. Workers' Union for the Complainants.

Shri K. B. Bose, Counsel, with Shri N. M. Das Gupta, Advocate, for the Port Commissioners.

#### AWARD

The present application under section 33-A of the Industrial Disputes Act, 1947 has been filed by one Mohit Mohan Dey, Grinder Gr. I, Machine Shop, complaining that during the pendency of the main adjudication proceedings a temporary vacancy in the post of a Grinder—Leading Hand was filled up by a fitter Shib Nath Bhawani, to the prejudice of the petitioner who is the senior-most Grinder, Grade I. The petitioner alleges that the promotion to the post of Grinder—Leading Hand should go according to the existing principle of promotion in the Calcutta Port to the senior-most Grinder and not to the fitter and that in giving the post to Shib Nath Bhawani to the exclusion of the petitioner, the petitioner's service conditions have been altered to his prejudice.

2. The Port Commissioners deny to have altered the service conditions of the petitioner. They deny that Shib Nath Bhawani was ever a fitter. The Commissioners' case is that Shib Nath Bhawani is a Grade I Toolmaker and has been much senior to the petitioner in Grade I, although the total length of service of the petitioner might be more than that of Shib Nath.

3. The service records of both the petitioner and Shib Nath Bhawani were placed before me. It appears that the petitioner was appointed on 22nd June, 1942 as a Driller Grinder Gr. III in the grade Rs. 30—40 with the starting salary of Rs. 35/- and was promoted to Grade II (Rs. 44—54) on 1st January, 1948. He was subsequently promoted to Grade I (Rs. 52—70) in a leave vacancy from 29th April, 1952 to 28th June, 1952. He reverted to Grade I on 29th June, 1952 and was promoted substantively to Grade I Grinder on 22nd July, 1954. Shib Nath Bhawani was appointed in 1945 as a Tool-maker Grade II in the grade Rs. 40—50. His starting salary was Rs. 44/-. He was promoted to Tool-maker Grade I, on 22nd December, 1946 and worked as Grinder Grade I from 1st February, 1949 to 30th April, 1954 and as a Tool-maker Grade I from 1st May, 1954. The present application was filed on 11th December, 1957. The award

in the main case was published in the Gazette of India, dated 30th January, 1958. Thus it is clear that the promotion was given to Shib Nath Bhawani sometime before the award was published. The question is whether the promotion offended the then existing principle. We get from the evidence of the petitioner that Shib Nath Bhawani and he were working in the same section under the same Foreman. The section was originally in the Mill Wright shop and was subsequently separated from it. Both worked under one and the same Leading Hand. Hence it must follow that whenever there is a vacancy in the post of the said Leading Hand both the petitioner and Shib Nath Bhawani may claim the post by way of promotion and the one who is comparatively senior must get the post provided he is found suitable. That Shib Nath Bhawani having been promoted to Grade I much earlier than the petitioner must be regarded as senior to the petitioner in Grade I. It is clear from the petition of complaint as also from the Annexure, Shib Nath Bhawani was adjusted against a post of Grinder Grade I. The petitioner alleges that Shib Nath Bhawani protested against this but there is nothing on the record to substantiate this allegation of the petitioner. Thus it cannot be denied that Shib Nath Bhawani being the senior man had a prior claim to promotion to the post of Leading Hand. It is for the management to give its verdict about the suitability or otherwise of Shib Nath Bhawani and the petitioner has no right to question the verdict. That Shib Nath Bhawani got the post leads to the presumption that he was found suitable and this presumption stands un-rebutted. Hence, there is no substance in the complaint which stands rejected. This is my award.

(Sd.) A. DAS GUPTA,

Sole Member,

Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;

The 18th February, 1958.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA,

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION No. 58 of 1957: (U/s. 33-A)

Sri Babu Nandan Kahar, U.S.L., T. No. 2368, Wagon Shop, C.M.E. Dept.,  
C/o C.P.C. Workers' Union, 3, Joykrishna Paul Road, Calcutta-23—  
Complainant.

Vs.

Calcutta Port Commissioners, 15, Strand Road. Calcutta-1—Opposite Party.

In the matter of a complaint under section 33-A of the Industrial Disputes Act, 1947 filed in connection with Reference No. 1 of 1956.

PRESENT:

Shri A. Das Gupta, Sole Member.

Dated the 19th February, 1958.

APPEARANCES:

Shri A. L. Roy of C.P.C. Workers' Union for the Complainant.

Shri K. B. Bose, Counsel, with Shri N. M. Das Gupta, Advocate, for the  
Port Commissioners.

#### AWARD

The present application under section 33-A of the Industrial Disputes Act, 1947 has been filed by one Babu Nandan Kahar, Unskilled Labourer, T. No. 2368, Wagon Shop, C.M.E. Department, complaining that a temporary vacancy of a Moochi, who has been on two months' leave, during the pendency of the main adjudication proceedings, has not been filled up with the result that the petitioner has been deprived of the temporary promotion to a higher grade. According to the petitioner this amounts to an alteration of his service conditions. The petitioner alleges that for such alteration of the service condition no express permission of the Tribunal was obtained as required by section 33 of the Act.

2. The Port Commissioners deny to have altered the service conditions of the petitioner.

3. It has been an established principle that it is the exclusive function of the management to determine the labour force. Now during the leave of the permanent Moochi if the authorities decided that the work could be managed without a substitute, there was nothing wrong. Filling up of temporary vacancies as also permanent vacancies depends upon the volume of work during the relative period. The management is under no obligation to fill up vacancies simply to facilitate promotion of some workmen. It has been authoritatively laid down that all industrial matters must be looked into objectively in the interest of the industry and not subjectively in the interest either of the employers or of the workmen. The petitioner might have a claim to the post if really the condition of work justified the vacancy to be filled up and management decided so. So long as a higher post is not justified, a worker has no claim to promotion to that post. In this view of the matter I cannot hold that the petitioner has an indefeasible right to promotion and that the management has defeated that right and has thereby altered his service conditions by not filling up the vacancy. The petition of complaint is accordingly rejected. This is my award.

(Sd.) A. DAS GUPTA,

Sole Member,

CALCUTTA;  
The 19th February, 1958.

Central Government Industrial Tribunal,  
Calcutta.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA,

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION No. 62 OF 1957

Kanal, Hammerman, T. No. 1167, New Blacksmith Shop, C.M.E. Department, C/o C.P.C. Workers' Union, 3, Joy Krishna Paul Road, Calcutta-23—Complainant.

*Vs.*

Calcutta Port Commissioners, 15, Strand Road, Calcutta-1—*Opposite Party.*

In the matter of a complain under section 33-A of the Industrial Disputes Act, 1947 filed in connection with Reference No. 1 of 1956.

PRESENT:

Shri A. Das Gupta, Sole Member.

*Dated the 19th February, 1958.*

APPEARANCES:

Shri A. L. Roy of C.P.C. Workers' Union for the Complainant.

Shri K. B. Bose, Counsel, with Shri N. M. Das Gupta, Advocate, for the Port Commissioners.

#### AWARD

The present application under section 33-A of the Industrial Disputes Act, 1947 has been filed by Shri Kanal, Hammerman, Ticket No. 1167, New Blacksmith Shop, complaining that the Foreman of the New Blacksmith Shop suddenly stopped allotment of overtime work to the petitioner to his prejudice on and from 27th November, 1957 during the pendency of the main adjudication proceedings before this Tribunal without any express permission of the Tribunal as required by section 33 of the Act. The petitioner alleges that equal distribution of overtime work among the workmen has been the standing practice of the Calcutta Port and has become term and condition of employment of the workmen in the Port, but the officer-in-charge has taken up the distribution of overtime work as a side business and has allowed overtime work to a very few selected workmen. The petitioner further alleges that the Foreman has altered the condition of the petitioner's service by stopping overtime work to him and has thereby put him to substantial pecuniary loss.

2. The Port Commissioners deny that equal distribution of overtime work among the workers was ever a practice in the Calcutta Port or overtime work was a term and condition of employment of the workers. The Commissioners

plead that overtime work depending as it does upon exigencies of business is distributed among the workmen according to the discretion of the distributing officer and that the petitioner having refused to do some work in connection with a job, the Foreman directed the job to be taken away from the petitioner and be done by some one else.

3. Both the petitioner and the Foreman have been examined before this Tribunal. A letter, dated 13th December, 1957 which is an annexure to the petition of complaint has been placed before me and two documents have been exhibited on behalf of the employers.

4. Overtime work may arise in two ways:

- (1) a work which a particular workman is doing but has not been finished within the scheduled working hours and may require the worker to continue beyond the scheduled working hours to finish it;
- (2) new urgent work requiring speedy execution.

As regards overtime work of the first class, no question of distribution arises, for the worker who is in charge of the particular job will normally do overtime work in connection with the job. About new urgent work requiring speedy execution, the job should be allotted, in the interest of efficiency to the proper man having regard to the nature of the job and the ability of the worker. All jobs are not of the same type and all workmen cannot be expected to be equally intelligent, efficient and quick. Thus, distribution of overtime work dependent as it does on exigencies of work cannot be a term and condition of service of a workman. It must be an exclusive management function and the Industrial Tribunal should not interfere unless it be proved that distribution of overtime work is vitiated by some extraneous considerations amounting to unfair labour practice. In this view of the matter it cannot be believed that equal distribution of overtime work had ever been an established practice in the Calcutta Port or that overtime work has become a term and condition of employment in the said Port. It is not the petitioner's case that any of the jobs which he is required normally to do has been taken away from him to deprive him of the extra remuneration for overtime work. If he has not been given any special job that does not amount to alteration of his service condition.

5. On 27th November, 1957 a special job came to the blacksmith shop. The job was in connection with two links of a swivel. A gas cutter had to be requisitioned from another section. The links of the swivel were lying on a platform. The main work was allotted to the petitioner. To enable the gas cutter to do his part of the job in connection with the links, the links had to be turned down. The Foreman asked the petitioner, who was standing by, to turn down the links. The petitioner turned down one of the links and when he was asked to turn down the second, he replied that it was not his duty and that two khalasis might be brought to get it done. The Foreman's case is that the second link was turned down by the Foreman himself when the petitioner refused to do it. But the petitioner's case is that the Foreman got two khalasis for the purpose. If really the Foreman got two khalasis to turn the second link, the petitioner should have examined those khalasis. The Foreman cannot be expected to give negative evidence. In fact when the petitioner complained against the Foreman, the Foreman submitted a report stating that the link had been turned down by himself. According to the Foreman the links were about one c.w.t. in weight while the petitioner insists that each of the links weighed about three maunds. If really each of the links were three maunds in weight, it was not possible for the petitioner to turn down the first link unaided.

6. A suggestion has been thrown out in the cross-examination to the Foreman that the Foreman bears a grudge against the petitioner from before. The petitioner suggests that he had joined in a complaint against the Foreman that he had become insane. A complaint dated 5th November, 1956 has been placed before me, but the petitioner does not appear to have been a signatory. This petition of complaint refers to an earlier one and it has been suggested that the petitioner was a signatory in the earlier complaint. If really this was so and if the Foreman had any grudge against the petitioner, he would have stopped overtime work to the petitioner long ago. The very fact that the petitioner was all along getting overtime work at least till 27th November, 1957 proves that the Foreman did not allow any personal matter to interfere with his official duty. That the extra job in connection with the links of the swivel which was allotted to the petitioner was taken away from him undoubtedly amounted to punishment. This punishment was inflicted during the pendency of the main adjudication proceedings and no permission of this Tribunal appears to have been obtained as required by section 33 of the Act. Turning down or moving an article on which a worker

is working, if it can be turned down or moved unaided, must be done by the worker himself. That is a part of his work. If at every stage the worker holds off his tools to get the article turned down or moved by some unskilled labourer, execution of the job will considerably be delayed. Refusing to turn down the link and asking the Foreman to get khalasis to get the work done undobutedly amounted to insubordination and the Foreman was perfectly justified in asking the mistry to remove the petitioner from the job. The job was of a very urgent nature and it was not possible to defer the order till necessary permission of the Tribunal under section 33 of the Act was obtained. In this view of the case, omission to obtain the Tribunal's permission was a technical defect and it does not in any way affect the merit of the case. The petition of complaint must accordingly be rejected. This is my award.

(Sd.) A. DAS GUPTA,

Sole Member,  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;

The 19th February, 1958.

[No. LR-II-31(2)58/Pt.]

New Delhi, the 10th March 1958

S.O. 222.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Nagpur, in the industrial dispute between the Chartered Bank, Bombay and its workmen.

BEFORE SHRI P. D. VYAS, CENTRAL GOVT. INDUSTRIAL TRIBUNAL NAGPUR AT BOMBAY.

Reference (CGIT) No. 12 of 1957.

Adjudication

BETWEEN

The Chartered Bank, Bombay

AND

Their Workmen.

In the matter of an industrial dispute relating to the alleged wrongful termination of the services of Shri N. D. Colsavala.

APPEARANCES:

Shri T. C. Hutchison, Accountant, for the Chartered Bank.

Shri B. S. Hemmady, General Secretary, Chartered Bank Employees' Union, for the workmen.

AWARD

This Reference has been made to me by the Government Order No. LR. 10(81)/57, dated 9th November 1957, as subsequently amended by the Corrigendum dated 23th November 1957, for adjudication of an industrial dispute between the Chartered Bank, Bombay and their workmen, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947). The dispute relates to the matter specified in the schedule annexed to the said order.

SCHEDULE

"Alleged wrongful termination of the services of Shri N. D. Colsavala by the Chartered Bank, Bombay and the relief, if any, to which he is entitled."

2. On the usual notices being issued, the General Secretary of the Chartered Bank Employees' Union has filed the statement of claims on behalf of the workmen and the Manager of the Chartered Bank has filed the written statement for and on



behalf of the said Bank. The dispute aforesaid is in respect of the alleged wrongful termination of the services of Shri N. D. Colsavala by the Chartered Bank, respectively referred to hereinafter as the concerned workman and the Bank.

3. The case on behalf of the workmen is that Shri Colsavala performed his duties honestly and efficiently as Assistant Cashier in the Cash Department since he joined the services of the Chartered Bank on 1st September 1937. From about the year 1943 the Chief Cashier of the Bank turned hostile and bore resentment towards him, because Shri Colsavala claimed payment for overtime work and leave which the Chief Cashier declined to allow. The Chief Cashier, however, could not take any action in view of the faithful and honest services of Shri Colsavala. But ultimately by a letter dated 29th March 1957, the Bank terminated his services on the ground that the guarantee covering his employment in the Cash Department was withdrawn by the said Chief Cashier. The giving of guarantee by the Chief Cashier to the Bank was a matter between the Bank and the Chief Cashier and under the terms of his appointment Shri Colsavala stood under no obligation to give or procure any guarantee. No only that the Chief Cashier gave the guarantee, if any, to the Bank outside the knowledge and without the consent of Shri Colsavala but he was not even informed that the Chief Cashier wanted to withdraw the guarantee and if so for what reason. The Union by its letter dated 15th April 1957, requested for a transfer of Shri Colsavala to any other department of the Bank or to take cash security from him for his employment in the Cash Department which he was ready to furnish. The Manager of the Bank however expressed his inability to do so. Shri Colsavala was a union member; and besides, the Bank has failed to implement the relevant provisions of the Bank Award in relation to him. His services have been terminated without any justification or valid ground and he has been given no opportunity to furnish cash security or a fidelity bond assuming that he was bound to do so under the terms of his employment. He has been without any employment from 29th March 1957 and the manner in which his services have been terminated has gravely affected his future prospects. He should therefore be reinstated in his original post with full back wages or in the alternative be awarded adequate compensation for loss of employment.

4. The Bank contends that it is not competent to the Union to raise an industrial dispute concerning the termination of the services of Shri Colsavala and that its demands are bad in law and in breach of the provisions of a binding Award and also of the provisions of the Industrial Disputes Act, 1947. This Tribunal, therefore, has no jurisdiction to entertain the Reference and it should be rejected in limine. The Bank further contends that Shri Colsavala's services have been dispensed with on 29th March 1957 by payment of three months' salary with all allowances in lieu of notice and it is not incumbent upon the Bank to state its reasons for the termination of his services. In case it is held that the reasons are to be enquired into or examined, the Bank alleges that under the practice followed for very many years regarding the employment of Cash Department personnel, the employees who handle cash in the Cash Department are employed upon the introduction of and under the Chief Cashier of the Bank. The Chief Cashier guarantees each such employee, that is to say, he makes himself fully and unconditionally responsible to the Bank for any shortage which might occur in his Department. The Chief Cashier himself does not take any cash security or deposit from the employees introduced and guaranteed by him. There are 30 Assistant Cashiers employed by the Bank on the guarantee given by the Chief Cashier and vast sums of money are handled by these employees in cash in the course of their day to day duties. At the end of each day the cash is locked up under the supervision of the Chief Cashier and the security of the entire department requires that all Assistant Cashiers are present when the cash is checked and locked up unless the Chief Cashier has given anyone of them specific permission to leave. It is accordingly a long standing rule and practice of the Bank that Cash Department personnel are not to leave the premises of the Bank without first obtaining the permission of the Chief Cashier. It was officially reported to the Bank on 4th January 1957, that Shri Colsavala had persistently and wilfully been flouting the said rule and practice in spite of his attention having been brought to a Departmental Circular. The Chief Cashier pointed out that it was consequently impossible for him to maintain control of the security of the Department and that he was unable to continue to guarantee Shri Colsavala. The Chief Cashier further pointed out that unless the services of Shri Colsavala were dispensed with, the security of the entire Department would be affected. Shri Colsavala's service record was far from satisfactory and contained previous instances of warning and reprimands for insubordinate and intransigent behaviour. In the light of his conduct and having regard to the enormity of the consequences of retaining his services, the Bank lost

all confidence in Shri Colsavala and it became impossible for the Bank to continue to employ him. It was out of the question for the Bank to take any individual or other guarantee in respect of him, since nothing short of an overall or blanket guarantee in respect of the Cash Department can effectively safeguard the Bank. It was under these circumstances that Shri Colsavala's services were dispensed with in accordance with the mode of termination prescribed by paragraph 522(1) of the Bank Award. The Bank was in no way bound to re-employ Shri Colsavala in some other department nor did his training, experience, ability or record fit him to work in any other department of the Bank. The Bank submits that Shri Colsavala has not been dismissed or discharged by way of punishment for misconduct and that it had every justification in terminating his services, since the Bank had no longer any confidence in him and because his retention in service might occasion heavy loss to the Bank.

5. At the outset it may be noted that the Bank's representative has not pressed or argued before me how the Reference is bad in law and this Tribunal has no jurisdiction to entertain the same. The contentions in this connection raised by the Bank in its written statement are all vague and the relevant facts or reasons have not been specified in order to show why it is not competent to raise the present industrial dispute concerning the termination of the services of Shri Colsavala or how the demands made in respect of him involve breach of the provisions of any award, i.e. the Bank Award and/or of the Industrial Disputes Act, 1947. So far as I am able to see, there is nothing in the Bank Award and/or in the Industrial Disputes Act to make the present Reference invalid. The question referred for adjudication is in regard to the alleged wrongful termination of the services of the concerned workman by the Bank and the workmen collectively as represented by the Union are entitled to raise such a dispute and undoubtedly it is an industrial dispute within the meaning of section 2(k) of the Industrial Disputes Act, which the Central Government has now referred to this Tribunal for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Act.

6. It is an undisputed fact that the concerned workman Shri Colsavala was employed by the Bank as an Assistant Cashier at the Bank's Bombay Branch on 1st September 1937, and his services were terminated on 29th March 1957 under the following letter addressed to him by the Bank's Manager:

"The guarantee covering your employment in the Cash Department has been withdrawn by the Chief Cashier. The Bank is therefore unable to continue to employ you.

2. In these circumstances we hereby give you notice that your services are no longer required by the Bank and that you will be paid three month's pay and allowances with effect from the date of this letter in lieu of notice. The aforesaid amount is enclosed with this letter. Please sign the annexed receipt in token of having received payment. Your pay and allowances to the date of this notice have already been paid to you.

3. Enclosed with this letter is also a cheque for the amount due to you by way of gratuity under the Bank Award and retrenchment compensation under the provisions of the Industrial Disputes Act made up as per account attached to this letter. Please sign the enclosed receipt therefor. We are advising the Trustees of the Provident Fund of your termination of service and you will receive from them the amounts due to you from the Fund.

4. A service Certificate is enclosed."

7. Of course this is not a case of retrenchment as such and it has been so agreed by the parties at the time of the hearing. What the Bank contends is that the services of Shri Colsavala have been terminated in accordance with paragraph 522(1) of the Bank Award popularly known as the Sastry Award and accordingly it is not incumbent upon the Bank to state its reasons for the termination of the services of the concerned workman nor is this Tribunal required to examine or to enquire into such reasons. It is true that the Bank has chosen to follow the procedure laid down in paragraph 522(1) of the Sastry Award for termination of employment, under which in cases not involving disciplinary action for misconduct, the employment of a permanent employee may be terminated by three months' notice or on payment of three months' pay and allowances

in lieu of notice. This provision on the face of it is merely procedural prescribing certain procedure for termination of employment in cases not involving disciplinary action for misconduct. It does not create any substantive right in the Banks giving them a free hand to dispense with the services of a permanent employee at will and absolving them from all responsibility therefor simply by following the prescribed procedure. The paragraph 522(1) under section IV occurs in Chapter XXV of the Sastry Award on Item No. 23: "Method of recruitment, conditions of service, termination of employment, disciplinary action etc." The provisions in this Chapter are similar to those usually incorporated in the Standing Orders governing the various industrial concerns and this point has been made clear in Chapter XXXI of the Sastry Award on Item No. 34: "Standing Orders". There in paragraph 560 it has been observed:

"We have already dealt with a large group of subjects under separate issues that would appropriately come under "Standing Orders". Reference may be made to our chapters on leave rules, hours of work and over-time, method of recruitment and conditions of service, subsistence allowance, transfers, promotions and so on. Our directions in all these matters cover the topics usually comprised under Standing Orders. We propose to give no further directions....."

Then in paragraph 561 it is laid down:

"The directions given by us in various matters that fall under "Standing Orders" taking the term in its wider significance should be understood as being subject to the provisions of any law for the time being in force. The provisions of section 33 of the Industrial Disputes Act, 1947 will apply if there be an industrial dispute and the dispute is referred to conciliation or to a Tribunal for adjudication."

The paragraph 522(1) of the Sastry Award is thus in the nature of a Standing Order prescribing procedure for termination of employment in certain cases but when an industrial dispute is raised in respect of any particular instance of such termination of employment and it is referred for adjudication under section 10(1)(d) of the Industrial Disputes Act, the Tribunal is entitled to enter into and decide the question of the propriety or legality of an order passed by an employer as a matter falling under item No. 1 of the Second Schedule of the Act.

8. Assuming therefore that this was a case not involving disciplinary action for misconduct and it was permissible to adopt the procedure laid down in paragraph 522(1) of the Sastry Award for termination of employment of the concerned workman, even then the legality and/or propriety of the action taken by the Bank has to be adjudged. It can hardly be argued with any seriousness as the Bank's representative seemed to do, that it was open to the management to discharge a workman either with the requisite notice or the payment in lieu thereof as per paragraph 522(1) of the Sastry Award and that the action taken accordingly called for no further scrutiny or interference. This would be tantamount to saying that a permanent employee irrespective of the length of his service, could at any time be discharged without assigning any reason and the only obligation on the management was simply to give him the requisite notice or make the payment in lieu thereof. The old notion of the law of master and servant that the master can at any time terminate the services of an employee by one month's notice or one month's wages in lieu thereof no longer holds good and it is not in consonance with the modern concepts of social justice governing employer-employee relations. The Federal Court of India in the case of Western India Automobile Association vs. the Industrial Tribunal, Bombay, (1951 Bombay Law Reported page 894) have laid down in unmistakable terms that an Industrial Tribunal is not fettered by limitations of ordinary law and its function is not merely to interpret the terms of contract of employment between an employer and employee. Their Lordships observed: "Adjudication does not, in our opinion mean adjudication according to the strict law of master and servant. The award of the Tribunal may contain provisions for settlement of a dispute which no court could order if it was bound by ordinary law, but the Tribunal is not fettered in any way by these limitations". Their Lordships citing a passage in Volume I of "Labour Disputes and Collective Bargaining" by Ludwig Teller page 536 have further observed: "In our opinion it is a true statement about the functions of an Industrial Tribunal in labour disputes" and the said passage is as follows:

".....industrial arbitration may involve the extension of an existing agreement or the making of a new one, or in general the creation of new obligation or modification of old ones. while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements".

So also the Supreme Court of India in the case of *Budge Budge Municipality vs. Shri P. R. Mukherjee and others* (1953 1, L.L.J. p. 195) while holding that the limited concept of what an Industry meant in early times must now yield place to an enormously wider concept so as to take in various forms of industry, so that disputes arising in connection with them might be settled quickly without much dislocation and disorganisation of the needs of society and in a manner more adapted to conciliation and settlement than a determination of the rights and disabilities according to strict legal procedure and principles, have laid down that the conflicts between capital and labour have now to be determined more from the standpoint of status than of contract. Their Lordships felt that "without such an approach, the numerous problems that now arise for solution in the shape of industrial dispute cannot be tackled satisfactorily, and this is why every civilised government has thought of the machinery of conciliation officers, boards and tribunals for the effective settlement of disputes". The whole problem has been carefully examined by the Labour Appellate Tribunal in the case of *Buckingham & Carnatic Mills Ltd. vs. Their workers* (1951 II, L.L.J. p. 314) and found that the common law right of an employer to discharge or dismiss an employee or what is popularly known in some countries as the "right to hire and fire" has been subjected to statutory restrictions. The Tribunal then enumerated certain fundamental principles viz. (1) that an industrial worker must be placed in such a position that the security of his service may not depend upon the caprice or arbitrary will of the employer; (2) that industrial peace should be maintained; and (3) that industry should be efficiently managed. In the same case the Standing Orders provided for three types of instances in which the services of an employee could be terminated:— (1) automatic termination for absence without leave for a stated period, or for overstaying leave without satisfactory explanation; (2) discharge on notice or in lieu thereof payment of wages for a certain period without assigning any reason; and (3) dismissal for misconduct. It was held that in all these types "the requirement of bonafides is essential and the termination of service in colourable exercise of the power or as a result of victimization or unfair labour practice or of caprice, should be prevented. . . . and that arbitrary conduct or unnecessary harshness on the part of the employer, judged by the normal standard of a reasonable man, may be cogent evidence of victimization or unfair labour practice." Thus even in a case where under the Standing Orders it is permissible to terminate the services of an employee with one month's notice or payment of wages in lieu thereof without assigning any reason, it is not permissible to an employer to exercise the power in an arbitrary or capricious manner and it is always open to inquire into the bonafides as well as the justifiability of his action. In all conceivability it could never have been the intention on the part of the Sastry Tribunal in prescribing the procedure for termination of employment in paragraph 522(1) of its award to give to the same any wider scope or different meaning and the said paragraph has to be considered and applied in conformity with the established principles as well as the statutory provision in section 10(1)(d) of the Industrial Disputes Act, 1947 read with items 1 & 3 of the Second Schedule of the Act.

9. The matter however does not rest there and it appears from the facts of the present case that the Bank has chosen to follow the wrong procedure in terminating the services of the concerned workman in the result that he had no opportunity to make his defence or to explain the circumstances alleged against him. The Bank in its written statement has alleged that Shri Colsavala was not dismissed or discharged by way of punishment for misconduct but the averments in the written statement read as a whole go to point out the case of misconduct. The evidence adduced at the time of the hearing together with all the circumstances of the case discussed *infra* also do indicate that this a case involving disciplinary action for misconduct and simply because the Bank has followed the procedure prescribed in paragraph 522(1) of the Sastry Award, we cannot be led to hold otherwise. The High Court of Bombay in the case of *The Municipal Corporation of Greater Bombay vs. Labour Appellate Tribunal of India* (59 Bombay Law Reporter p. 413 at page 417), has made the point clear with the remarks:

'.....the form of the order terminating employment is not always decisive of the true nature of the order. If an order in form terminating employment is passed merely to camouflage an order dismissing or discharging from employment, the Labour Court may be entitled to come to the conclusion, having regard to the circumstances in which the order was passed, that the requisite formalities not having been followed the order was unlawful and cannot be given effect to.'

If therefore it is found that the Bank has merely in colourable exercise of the power made the order under paragraph 522(1) of Sastry Award, even though this is a case involving disciplinary action and punishment for misconduct, it cannot be given effect to, as admittedly the requisite formalities laid down in paragraph 521 of the Sastry Award for taking disciplinary action have not been followed by the Bank.

10. I shall now proceed to examine what in reality is the case of the Bank against the concerned employee as pleaded in its written statement. The Bank appears to have put its case in an exaggerated manner by making frequent use of the hyperbolic words and expressions but this should not go to create any bias in our mind. Taking the whole case as it stands dispassionately, the main and real allegation against Shri Colsavala which brought about the termination of his services is that he persistently and wilfully flouted the longstanding rule and practice of the Bank under which the Cash Department personnel are not to leave the premises of the Bank without first obtaining the permission of the Chief Cashier. It is said that the Bank's practice in regard to the employment of Cash Department personnel as existing for many years has been that employees who handle cash in the Department are employed upon the introduction of and under the Chief Cashier of the Bank. The Chief Cashier guaranteeing each such employee, makes himself responsible to the Bank for any shortage occurring in his Department, though the Chief Cashier himself does not take any cash security or deposit from the employees introduced and guaranteed by him. There are 30 Assistant Cashiers employed by the Bank on the guarantee given by the Chief Cashier and they are required to handle large sums of money in cash in the course of their day to day duties. At the end of each day the cash is locked up under the supervision of the Chief Cashier and the security of the entire department requires that all Assistant Cashiers are present when the cash is checked and looked up unless the Chief Cashier has given any one of them specific permission to leave. It is this practice which Shri Colsavala is alleged to have flouted in spite of his attention having been brought to a Departmental Circular.

11. In the first place there is no cogent and reliable evidence in proof of the alleged longstanding practice and for this purpose we have merely to depend on the ipse dixit of the Bank's Chief Cashier who is now but to get rid of Shri Colsavala and on whose report his services have been terminated. It is true that the circular Ex. B-2 dated 24th December 1956, was issued by the Chief Cashier under his signature but it is a general circular meant for all the Assistant Cashiers including Shri Colsavala. In the written statement it is alleged that the attention of Shri Colsavala was pointedly brought to the practice in question by this departmental circular. But the circular on the face of it does not personally refer to him and it speaks in general terms whereby all the Cashiers are reminded that on no account should any of them leave the Bank until cash has been locked away for the day except with the prior permission of the Chief Cashier. If really there was in vogue any such longstanding practice in the Bank for years, it is difficult to understand why it became necessary at this juncture of time to issue a general circular of this character. The practice in the Cash Department which is specifically mentioned in the circular is that every cashier should report to the Chief Cashier and in his absence to Mr. Major, before leaving the office every evening. The Chief Cashier Shri J. K. Screwvalla has stated in his deposition that on the retirement of his father he was appointed as Chief Cashier in February 1956, whereafter he left for England in April 1956, and returned in September 1956. The circular was issued in December 1956; and thus whatever may be the actual practice, if any, in the past, the only natural inference which we can draw from the circular is that the present Chief Cashier Shri J. K. Screwvalla during his regime tried to revive or introduce some practice which all the Assistant Cashiers did not collectively and consistently follow. If we refer to the affidavit dated 10th January 1958, of Shri Colsavala, he there in paragraph 5 denies any such past practice as alleged by the Bank and according to him, it was the present Chief Cashier who took out the circular to that effect and thereafter he acted accordingly.

12. The question of cash deposits, fidelity bonds and other securities furnished by the staff has been considered in Chapter XXI—Section I of the Sastry Award and in Chapter XV of the Labour Appellate Tribunal's decision. In the Sastry Award the existing practice in the various Banks has been referred to as revealing the need felt by the Banks to have some sort of security to cover the financial loss that may be caused by any fraud or negligence or by embezzlement of monies by workmen engaged in the Cash Department. After making the survey of this practice, the form of a security taken is summarised thus: (1) a cash deposit from

the workman in proportion to the risks involved; (2) a fidelity bond to be furnished by the workman at his own expense; (3) a fidelity bond in the case of an individual workman at Bank's own cost; or (4) a general or blanket fidelity bond or policy taken out by the Bank to cover loss by fraud or dishonesty of a part or whole of the staff upto a specified amount. The practice in the Chartered Bank is alleged to be that the Chief Cashier furnishes a general or blanket guarantee on behalf of the Assistant Cashiers under him without himself taking any cash security or deposit from them. The Chief Cashier deposes that in so far as he is aware, this practice of general guarantee for the Cashiers is being followed in the Bank for the last 35 years. No such existing practice in the Chartered Bank however, finds place in Chapter XXI of the Sastry Award where the practice followed in other Banks has been mentioned and the Chief Cashier admits in his deposition that though the Chartered Bank was a party to the Reference before the Sastry Tribunal, no such practice within his knowledge was brought to the notice of the said Tribunal. Whatever it may be, we are now told that the general guarantee of the above nature was given by the present Chief Cashier after his appointment as such in the year 1956 and also by his father during the time the father served as the Chief Cashier. The Bank's case therefore is that when Shri Colsavala flouted the rule and practice not to leave the premises of the Bank without first obtaining the permission of the Chief Cashier, the Chief Cashier reported against him on 4th January 1957, saying that he as Chief Cashier was unable to continue to guarantee Shri Colsavala and unless his services were dispensed with the security of the entire department would be affected. In consequence of this report the Bank terminated the services of Shri Colsavala under the aforesaid letter dated 29th March 1957.

13. As the Chief Cashier has put it in his deposition, it was the behaviour of Shri Colsavala that made him withdraw the guarantee and it was because of the persistent disobedience of his orders by Shri Colsavala that he reported the matter, his orders being not to leave the office before the cash is locked and without his prior permission. It is pertinent to note that Shri Colsavala joined the services of the Bank as Assistant Cashier in the year 1937 and right up to the time of the present Chief Cashier there is not a single recorded incident in evidence to show that Shri Colsavala left the office in the alleged manner. The alleged incidents of leaving the office are said to have taken place only in the time of the present Chief Cashier excepting one in the middle of December 1956 referred to by him in his examination-in-chief and for which there is no independent evidence beyond his bare word. As regards the incidents in his time, the Chief Cashier first stated that it was on more than two occasions i.e. about 4 in all when Shri Colsavala left the office without prior permission. In his cross-examination he speaks of 4 or 5 such incidents after he took the charge as Chief Cashier. Again he mentions 4 such occasions when Shri Colsavala left without his permission after the aforesaid departmental circular. He is, however, unable to give the exact dates or time when Shri Colsavala so left. Just to lend colour to the story against Shri Colsavala, it may easily be said that his service record was far from satisfactory and that there were several instances in the past when he had to be warned or reprimanded for insubordinate and intransigent behaviour. The Bank has failed to produce any cogent and convincing evidence for this purpose and the only witness examined viz. the Chief Cashier is unable to give the exact dates when Shri Colsavala was insubordinate or impertinent. The Chief Cashier himself never gave any warning in writing for the alleged persistent disobedience of his orders. The only evidence worth the name on record consists of Exs. B-1 and B-4 respectively dated 15th January 1948 and 17th December 1948 where we find reference to the undesirable behaviour of Shri Colsavala for which he is alleged to have been repeatedly warned. There are no details of the incidents before us but unquestionably the same as referred to in Ex. B-1 or Ex. B-4 have nothing to do with the charge now levelled against Shri Colsavala that he used to leave the office without the prior permission of the Chief Cashier. We do not know whether before issuing any such final warning as per Ex. B-4, Shri Colsavala had his say in the matter and in this connection Shri Colsavala has given his explanation in paragraphs 7 and 8 of his affidavit dated 10th January 1958. Shri Colsavala had been in service since 1937 and during his 20 years' service until the same was dispensed with in 1957, we do not find any record in writing excepting the said Ex. B-4 in December 1948.

14. Shri Colsavala in his affidavit dated 10th January 1958 states that his appointment had no reference to any guarantee and he was never asked to agree to any such condition or shown any such document of guarantee. According to him, the giving of guarantee by the Chief Cashier was a matter between the Chief

Cashier and the Bank. Whatever may be the arrangement between the Bank and the Chief Cashier regarding the security in the cash Department as against any loss or shortage, it is an undisputed fact that the Chief Cashier gives the general guarantee on a certain understanding with the Bank, for which purpose the Assistant Cashiers under him are never consulted or called upon to give their consent nor are they made aware of the contents of such general guarantee. The so-called general or blanket guarantee given by the present Chief Cashier's father is not now before us. The one given by him Ex. B—5 has been produced claiming confidence under Section 21 of the Industrial Disputes Act, 1947. It is thus to be treated as a confidential document and I am not in a position to disclose or discuss the contents thereof in details. The fact, however, remains that it is a document embodying an agreement between the Bank and the Chief Cashier *inter se* and Shri Colsavala like other Assistant Cashiers never knew nor was informed about the terms of such general guarantee given by the present Chief Cashier or his father. Even now the Bank is not prepared to disclose the contents of the general guarantee Ex. B—5 given by the present Chief Cashier by claiming confidence. It is not the Bank's case that when Shri Colsavala was first employed as Assistant Cashier in the year 1937, it was one of the conditions of his service to continue him in employment so long as the Chief Cashier guaranteed him. On the contrary it was conceded on behalf of the Bank that there is no appointment letter specifically mentioning any such condition. Right from the beginning Shri Colsavala was an employee of the Bank and he was in all respects entitled to look upon the Bank as his employer for the security of his service. The Chief Cashier may be his departmental superior but the continuance of his service cannot depend solely on the pleasure of the Chief Cashier so that no sooner than the Chief Cashier withdrew the so-called guarantee, the concerned workman is immediately out of service whatever may be the length or character thereof.

15. The report dated 4th January 1957 given by the Chief Cashier is styled as "strictly private and confidential". Evidently it was a onesided report, the contents whereof were never brought to the notice of Shri Colsavala nor was Shri Colsavala informed by the Chief Cashier before making his report to the Bank that he was withdrawing the guarantee covering employment of Shri Colsavala in the Cash Department. It was on the basis of this report that the Bank's Manager addressed the aforesaid letter dated 29th March 1957 to Shri Colsavala terminating his services with immediate effect and naturally thus Shri Colsavala was taken by surprise. The letter states in vague terms that the guarantee covering the employment of Shri Colsavala in the Cash Department has been withdrawn by the Chief Cashier and so the Bank is unable to continue to employ him. There is not the slightest mention or suggestion why the Chief Cashier has withdrawn the guarantee and in this manner the services of the employees in the Cash Department could be terminated, it would mean that they are there during the pleasure of the Chief Cashier and may be thrown out of employment at any time if the Chief Cashier reports against them and withdraws the guarantee in respect of them. Taking the case of the Bank at its best, it may on the basis of any such report from the Chief Cashier proceed to take action against the concerned workman but that cannot be made a ground for terminating the services as no longer required as it has been done under the Bank's letter dated 29th March 1957.

16. The action, if any, which could be taken by the Bank in the present case was the disciplinary action for the alleged insubordination and persistent disobedience of the orders of the Chief Cashier not to leave the office before the cash is locked and without his prior permission. Under paragraph 521 (4)(e) of the Sastry Award, wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior amounts to gross misconduct, and in such a case before taking any disciplinary action or punishing the concerned employee therefor, the requisite procedure of a chargesheet and an enquiry laid down in the said paragraph has to be followed. Had this procedure been adopted, the concerned workman would have had the benefit of knowing the alleged charges under the chargesheet served on him and after rendering his explanation, he would have had further an opportunity to make his defence in the enquiry following the chargesheet. The Bank in giving a go-bye to the procedure required to be followed under paragraph 521 and in preferring the procedure prescribed in paragraph 522(1) of the Sastry Award has manifestly placed the concerned workman at a disadvantage and with his 20 years of service in the Bank, he has been forthright thrown out of employment simply because the Chief Cashier chose to report against him. Even the Chief Cashier concedes in his deposition that during his service in the Bank he does not remember a single instance in which the employment of an Assistant Cashier was terminated because of the withdrawal of the general guarantee by the Chief Cashier.

17. The workmen's representative referred to the case of Shivanandan Sharma vs. the National Bank Ltd. (1955 I. LL. J. 888) where the treasurers were employed by the Bank under a contract styled as "contract-treasurers", and the treasurers had the fullest responsibility for the appointment, dismissal and payment of the salary of the cashiers and other assistants employed by them. Nevertheless having regard to the fact that the appointment (of the cashiers and other assistants) has to be approved by the Bank and the treasurers cannot continue to employ those workmen in whose fidelity and efficiency the Bank had no confidence, the Supreme Court of India held that such workmen must be regarded as employees of the Bank only. Their Lordships observed: "if a master employs a servant and authorises him to employ a number of persons, to do a particular job and to guarantee their fidelity and efficiency for a cash consideration, the employees thus appointed by the servant would be, equally with the employer, servants of the masters". So also in the case of the United Commercial Bank Ltd., Delhi vs. certain employees (1952 I LLJ.393), the Labour Appellate Tribunal held that the employees of cash department of a bank are the employees of the bank and are entitled to the same conditions of service as any other employee and that to discharge them the same rules of framing a charge etc. should have to be followed and if the case for discharge has not been substantiated, then the employees would be entitled to reinstatement and not to compensation only. In the case of Kanpur Mechanical and Technical Workers' Union vs. the Ganges Flour Mills (1954 I LLJ.332), it was held that a notice of termination mentioning the alleged act of misconduct cannot take the place of a proper chargesheet. If after receipt of the reply of the workman to the notice of termination, the management considers that the allegations made against the workman are true, the proper course on the part of the management is to frame a regular chargesheet against him and examine witnesses in support of the allegations after giving him an opportunity to appear at the enquiry and give him a chance for explanation and defence. For the rules of natural justice require that the delinquent must have a reasonable opportunity of being heard and of correcting and contradicting any relevant statement prejudicial to his interest. In that case the management having failed to hold an enquiry and take evidence after a proper chargesheet, the Labour Appellate Tribunal came to the conclusion that there was no material on record from which it could be said that the view taken by the management was a possible view or that it acted honestly with a sense of responsibility and in good faith. In the circumstances the termination was held to be wrongful and the concerned workman was directed to be reinstated with full back wages and without prejudice to his continuity of service. In the present case the termination of service in reality turned upon the disciplinary action for an alleged misconduct and it was obligatory on the Bank to follow the procedure laid down in paragraph 521 of the Sastry Award.

18. On behalf of the Bank reliance was placed on the judgment of the Bombay High Court in the aforesaid case of the Municipal Corporation of Greater Bombay vs. Labour Appellate Tribunal (59 Bombay Law Reporter 413) but there the facts were entirely different. It was a case under the Bombay Industrial Relations Act, where the two courts below namely the Labour Court and the Industrial Court had given concurrent findings on fact that the order terminating the services was a proper order passed bonafides under Standing Order No. 26 framed by the undertaking under the Act. But the Labour Appellate Tribunal in an appeal before it addressed itself to the question whether the order passed by the undertaking amounted to imposing penalty upon the employee and having found that the punishment imposed was for misconduct, held that the undertaking could not be permitted to avoid the necessity of an enquiry as prescribed under the Standing Order No. 23, by purporting to act under the Standing Order No. 26, according to which no such enquiry was obligatory. The High Court of Bombay in a judgment on writ petition felt that the Tribunal should have accepted the findings of fact arrived at by the Labour Courts and held that the order passed by the Tribunal was liable to be set aside, as it had over-stepped the limits of its jurisdiction defined by Section 7 of the Industrial Disputes (Appellate Tribunal) Act, 1950 and had assumed jurisdiction not vested in it by law. In that very judgment however, their Lordship have made further remarks quoted *supra* (in paragraph 9) which go to support the present case. The Bank's representative also referred to the judgment of the Supreme Court in the case Shyam Lal vs. the State of Uttar Pradesh and the Union of India (1955 Supreme Court Reports 26) but it was a case of compulsory retirement and as such has no application to the facts before us.

19. It is abundantly clear from the facts and the circumstances discussed above that the Bank in terminating the services of the concerned workman has omitted



to follow the requisite procedure and has erred in acting simply on the one-sided report of the Chief Cashier. If the workman was really guilty of insubordination and disobedience of the lawful or reasonable orders of the superior as seems to be the Bank's case, the proper method of dealing with it was to follow the procedure of a chargesheet and an enquiry as laid down in paragraph 521 of the Sastry Award. Whatever may be the past record of the concerned workman, it becomes relevant only for the purpose of determining the nature of the punishment after an employee is found on enquiry guilty of the charge of misconduct levelled against him. So also whatever may be the position of the Chief Cashier who reported against the concerned workman, he could not be hit at his back in the manner the Bank has done in violation of the principles of natural justice as well as the provisions of paragraph 521 of the Sastry Award. In my opinion, therefore, the termination of the services of Shri Colsavala by the Bank is illegal and improper and he is entitled to the lawful remedy of reinstatement with full back wages and other benefits.

20. It would not be correct in the circumstances of the case to depart from the normal remedy of reinstatement and deny the same simply because the Bank has chosen to say in its written statement that it has lost all confidence in Shri Colsavala and it is thus impossible for the Bank to continue to employ him. In the aforesaid letter dated 29th March 1957 terminating his services, there is no allegation of loss of confidence and there the services are terminated by the Bank as no longer enquired on the alleged ground that the guarantee covering his employment in the Cash Department has been withdrawn by the Chief Cashier and the Bank is therefore, unable to continue to employ him. It is in the subsequent letter dated 5th April 1957 in reply to the Union's letter that the Manager of the Bank speaks of the Bank's inability to employ in the Cash Department with confidence any person who is not guaranteed by the Chief Cashier. In the Bank's written statement after the present reference its action is sought to be justified on the ground that Bank had no longer any confidence in Shri Colsavala and his retention in service might occasion heavy loss to the Bank. This indicates how the case has been developed at different stages but apart from that it is not enough just to say in vague terms that the Bank has lost confidence in the man concerned or that his retention in service might occasion heavy loss to the Bank. We must know the adequate reasons for making such serious allegations and besides, the same have to be duly established by independent proof which is lacking in the present case. Whenever the question of reinstatement arises, more often than not the usual argument on behalf of the employer is that he cannot be compelled to employ any one against his will. But their Lordships of the Madras High Court have aptly laid down in the case of East India Industries (Madras) vs. the Industrial Tribunal Madras, and another (1955 II LLJ.470), that the proper way of looking at the matter is that an employer is not allowed to terminate the services of a workman except in a lawful manner and if on adjudication the Industrial Tribunal arrives at the conclusion that the dismissal is not valid, the position is that the workman must be deemed never to have been dismissed at all and so continues in service.

21. In the result I hold that the termination of the services of Shri N. D. Colsavala by the Chartered Bank, Bombay, is wrongful and he should be reinstated in his original post with full back wages and other benefits which he may be entitled to. I direct accordingly. The Bank shall also pay Rs. 100 by way of costs to the workman.

The 21st February, 1958

P. D. VYAS,

Central Government Industrial Tribunal, Nagpur at Bombay.

[No. LRI. 10(81)/57.]

S.O. 223.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the Hindustan Mercantile Bank, Limited, Calcutta, and its workmen.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 Gurusaday Road, Ballygunge, Calcutta-19.

REFERENCE No. 11 of 1957.

## PARTIES:

The Hindustan Mercantile Bank Limited, Calcutta

AND

Its workmen.

## PRESENT:

Shri A. Das Gupta, Presiding Officer.

## APPEARANCES:

Shri S. N. Roy Choudhry, Staff In-charge—for the Bank.

Shri S. K. Ghosh, Assistant Secretary, All India Bank Employees Association, with Shri S. C. Acharjee, Secretary, Hindustan Mercantile Bank Employees Union, Calcutta—for the workmen,

## AWARD

By Government of India, Ministry of Labour and Employment, Notification No. S.R.O. 4069 dated the 17th December, 1957, an industrial dispute between the Hindustan Mercantile Bank, Limited, Calcutta and its workmen regarding a special allowance of Rs. 40 demanded by Shri R. P. Dubey, a workman of the Hindustan Mercantile Bank Limited, was referred to me. Both parties filed their written statements and to-day was fixed for hearing of the dispute. The representatives of the parties have informed the Tribunal that the dispute has been settled and they have filed a Memorandum of Settlement. The term of the settlement are reasonable and should be given effect to. I accordingly award in terms of the settlement which is annexed to this award and forms part of it.

ENCL: Terms of Settlement.

CALCUTTA:

26th February, 1958.

A. DAS GUPTA,

Presiding Officer,

Central Government Industrial Tribunal,  
Calcutta.

## MEMORANDUM OF SETTLEMENT

## PRESENT.

For the Hindustan Mercantile Bank Ltd. Head Office, Calcutta.—Sri P. H. Kothari, General Manager.

For the Hindustan Mercantile Bank Employees' Union, Calcutta.—Sri Sushil Acharjee, Secretary, Hindustan Mercantile Bank Employees' Union, Calcutta.

Dated 25th February 1958.

(1) An industrial dispute existed between the Management of the Hindustan Mercantile Bank Ltd., Calcutta, and the Hindustan Mercantile Bank Employees' Union, Calcutta, for non-payment of Supervisory Allowance to Sri R. P. Dubey, Cashier-cum-Supervisor of Chandernagore Branch of the Bank. The Government of India referred this dispute to Sri A. Das Gupta, Presiding Officer, Central Government Industrial Tribunal, as also of the L.A.T., Calcutta, for adjudication. The said dispute is at present pending before the Honourable Tribunal for adjudication as reference No. 11 of 1957.

(2) After discussion both the parties to the dispute have arrived at the following settlement and agree that this memorandum of settlement be filed before the Tribunal with a request to award the same accordingly.

(3) The Bank agrees that—

(a) Sri R. P. Dubey will be treated as Cashier-cum-Supervisor.

(b) Sri R. P. Dubey will be paid Supervisory Allowance of Rs. 40 p.m. as provided in the Award with retrospective effect from 1st January 1957 instead of Head Cashier's Allowance of Rs. 12 p.m. which he is getting at present. He will not claim any payment as arrear prior to 1st January 1957 regarding the dispute referred to above.

(Sd.) P. H. KOTHARI,

Representative,

Hindusthan Mercantile Bank Ltd.,  
Calcutta.

(Sd.) SUSHIL ACHARJEE, Secy.,

Hindusthan Mercantile Bank Employees Union,  
Calcutta.

Countersigned,

For the All India Bank Employees Association.

(Sd.) SUSHIL GHOSE, Asstt. Secy.

[No. LRI. 10(62)/57.]

### ORDER

*New Delhi, the 8th March 1958*

S.O. 224.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the South Bullharae/Kendwadhi Colliery of M/s. East Indian Coal Company Ltd., P.O. Jealgora, Dhanbad and their workmen represented by Bihar Colliery Mazdoor Sangh, Dhanbad, in respect of the matter specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal at Dhanbad constituted under section 7A of the said Act

### THE SCHEDULE

Whether in view of the provisions contained in paragraph 701 of the Award of the All India Industrial Tribunal (Colliery Disputes) as modified by paragraph 361(1) of the Division of the Labour Appellate Tribunal, the curtailment of paid festival holidays from 9 to 7 in a year after the introduction of the said award as modified is permissible in terms of the said award.

[No. LR-II/55-1(28)/57.]

### CORRIGENDUM

*New Delhi, the 8th March 1958*

S.O. 225.—In the Order of the Government of India in the Ministry of Labour and Employment No. LR-II-57-2(11)/57, dated the 21st January, 1958, published in the Gazette of India, Part II, Section 3, dated the 25th January, 1958 as S.R.O. 338, dated the 21st January, 1958 on pages 199-200, for 'clause (d)' substitute 'clause (c)'.

[No. LR-II-57-2(11)/57.]

A. L. HANDA, Under Secy

*New Delhi, the 8th March 1958*

S.O. 226.—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, 1952, framed under section 5 of the Employees' Provident Funds Act, 1952 (19 of 1952) and in supersession of the notification of the Government of India in the late Ministry of Labour S.R.O. No. 42, dated

the 21st December, 1954, the Central Government hereby appoints Shri S. S. Parija, I.A.S., Labour Commissioner, Orissa, to be the Regional Provident Fund Commissioner for the whole of the State of Orissa. Shri S. S. Parija shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. PF-I/31(376)/57.]

S.O. 227.—In exercise of the powers conferred by Sub-Section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952) and in supersession of the Notification of the Government of India in the late Ministry of Labour S.R.O. No. 41, dated the 21st December, 1954, the Central Government hereby appoints Shri S. S. Parija, I.A.S., Labour Commissioner, Orissa, to be Inspector for the whole of the State of Orissa for the purposes of the said Act and of any Scheme made thereunder, in relation to an establishment which is a factory engaged in a controlled industry or a mine or an oilfield.

[No. PF-I/31(376)/57.]

A. R. ANTANI, Dy. Secy.

### MINISTRY OF REHABILITATION

*New Delhi, the 4th March 1958*

S.O. 228.—In exercise of the powers conferred by Sub-Section (1) of section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri B. S. Grewal, I.C.S., Secretary to the Punjab Government Rehabilitation Department, Chandigarh as ex-officio Settlement Commissioner in the State of Punjab for the purpose of performing the functions assigned to a Settlement Commissioner by or under the said Act, in respect of agricultural lands and shops in any rural area including houses, cattle sheds and vacant sites, if any, in any such area allotted alongwith any such lands.

[No. 1(7)(43)/57-SIII.]

ONKAR DAYAL, Under Secy.

#### (Office of the Chief Settlement Commissioner)

*New Delhi, the 29th January 1958*

S.O. 229.—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints for the State of West Bengal, Shri Mohan Chaudhry, I.A.S., Secretary, R and R Department, Government of Bihar as Custodian for the purpose of discharging the duties imposed on Custodian by or under the said Act in relation to the territories comprised in the state of West Bengal to which the said Act extends.

[No. XI(2)Prop(Admn.)/58.]

*New Delhi, the 31st January 1958*

S.O. 230.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Comp. and Rehabilitation) Act No. 44 of 1954 the Central Government hereby appoints every officer for the time being holding the post of Sub-Divisional Officer, Purulia, West Bengal as Managing Officer, for the custody, management and disposal of compensation pool in the State of West Bengal.

[No. XI(2)Prop(Admn.)/58.]

*New Delhi, the 1st February 1958*

S.O. 231.—In exercise of the powers conferred by sub-section (1) Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints for the State of West Bengal every officer for the time being holding the post of Sub-Divisional Officer, Purulia (West Bengal) as Assistant Custodian for the purpose of discharging the duties imposed on Custodian by or under the said Act, in relation to the territories comprised in that State to which the Act extends.

[No. XI(2)Prop(Admn.)/58.]

*New Delhi, the 3rd February 1958*

**S.O. 232.**—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints Shri J. M. Sheth, as Assistant Custodian Evacuee Property for the States of Bombay, Madras, Mysore and Kerala for the purpose of discharging the duties imposed on Custodian by or under the said Act.

[No. III(37)Prop(Admn.)/57.]

*New Delhi, the 4th February 1958*

**S.O. 233.**—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 44 of 1954 the Central Government hereby appoints every officer for the time being holding the post of Sub-Divisional Officer, Raiganj (West Bengal) under the Administration of Evacuee Property, Act, 1950 (XXXI of 1950) as Managing Officer, for the custody, management and disposal of compensation pool in the State of West Bengal.

[No. XI(2)Prop(Admn.)/58.]

*New Delhi, the 5th February 1958*

**S.O. 234.**—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Shri J. M. Sheth, Assistant Custodian in the office of the Custodian of Evacuee Property, Bombay, as Managing Officer for the Custody management and disposal of compensation pool.

[No. III(37)Prop(Admn.)/58.]

**S.O. 235.**—In exercise of the powers conferred by sub-section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints for the State of West Bengal every officer for the time being holding the post of Sub-Divisional Officer Raiganj (West Bengal), as Assistant Custodian for the purpose of discharging the duties imposed on the Custodian under the said Act, in relation to the territories comprised in that State to which the Act extends.

[No. XI(2)Prop(Admn.)/58.],

*New Delhi, the 18th February 1958*

**S.O. 236.**—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Claims) Supplementary Act, 1954 (No. 12 of 1954), the Central Government hereby appoints Shri C. L. Mahay as Settlement Officer for the purpose of performing the functions assigned to such officer by or under the said Act, with effect from the date he took charge of his office in the office of the Chief Settlement Commissioner.

The Central Government also appoints the said officer as Additional Settlement Commissioner for the purpose of performing the functions assigned to such officer by or under the said Act with effect from the same date.

[No. 11-B/39/58/CSC/AI.]

*New Delhi, the 20th February 1958*

**S.O. 237.**—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Comp. and Rehab.) Act No. 44 of 1954 the Central Government hereby appoints Shri M. N. Mathur for the time being holding the post of Settlement Officer in the office of the Regional Settlement Commissioner, New Delhi as Managing Officer, for the custody, management and disposal of compensation pool.

[No. 934/Prop(Admn.)/58.]

*New Delhi, the 28th February 1958*

**S.O. 238.**—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of section 16 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954 the Central Government hereby appoints every officer for the time being holding the post of Additional Collector Ratnagiri as Managing Officer, for the custody, management and disposal of compensation pool.

[No. IX(2)Prop(Admn.)/57.]

*New Delhi, the 4th March 1958*

**S.O. 239.**—In exercise of the powers conferred by Sub-Section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints for the Delhi Administration, Shri M. N. Mathur, Settlement Officer in the office of the Regional Settlement Commissioner, New Delhi as Assistant Custodian for the purpose of discharging duties imposed on Custodian by or under the said Act.

[No. 934/Prop (Admn.)/58.]

I. N. CHIB, Dy. Chief Settlement  
Commissioner *ex-officio* and Dy. Secy.

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**(Office of the Chief Settlement Commissioner)**

*New Delhi, the 4th March 1958*

**S.O. 240.**—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri H. K. Chaudhry, Authorised Deputy Custodian as Assistant Settlement Commissioner for the purpose of performing the functions assigned to Assistant Settlement Commissioners by or under the said Act with effect from the date he took charge of his office.

[No. 5/51/58-Comp.I.]

M. L. PURI, Settlement Commissioner  
and *ex-officio* Under Secy.

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**MINISTRY OF INFORMATION AND BROADCASTING**

*New Delhi, the 10th March 1958*

**S.O. 241.**—In exercise of the powers conferred by the Sub-Section (2) of Section 5 of the Cinematograph Act, 1952 (XXXVII of 1952), the Central Government hereby directs that the film entitled "Bombay Flight 417" (English) produced by Messrs. Filmistan Private Ltd., Bombay shall be deemed to be an uncertified film in the whole of India.

[No. 8/7/57-FC.]

D. R. KHANNA, Settlement Commissioner  
and *ex-officio* Under Secy.